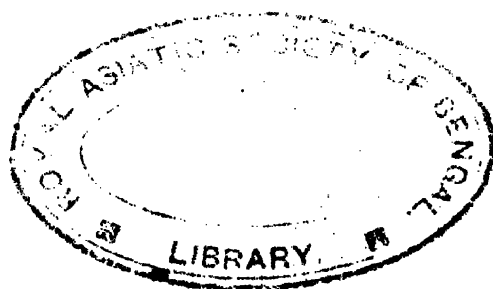


LORD CHIEF BARON POLLOCK

A MEMOIR





THE LORD CHIEF BARON

From a portrait in the possession of the author.

LORD CHIEF BARON POLLOCK

A MEMOIR

BY HIS GRANDSON

LORD HANWORTH, P.C., K.B.E.

MASTER OF THE ROLLS

HIGH STEWARD OF STRATFORD-ON-AVON, AND DEPUTY HIGH STEWARD OF
CAMBRIDGE UNIVERSITY

LONDON

JOHN MURRAY, ALBEMARLE STREET, W.

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25697.

TO
THE MEMORY OF OUR SON
CHARLES THOMAS ANDERDON POLLOCK

CAPTAIN, INNS OF COURT O.T.C., ATTACHED
1/4 EAST YORKS REGIMENT

KILLED NEAR MOREUIL IN FRANCE ON EASTER DAY, THE
31ST MARCH, 1918, WHILE CARRYING HIS WOUNDED
BATMAN ON HIS BACK OUT OF THE BATTLE ZONE, AND
ENDEAVOURING TO PLACE HIM IN SAFETY.

PREFACE

THE death of our son, to whose memory these pages are inscribed, broke the chain of tradition in our family. At his death his little boy was barely a year and a half old. As I have collected various papers of my grandfather during my life, and had an unique opportunity of learning about him from my own father, George Frederick Pollock, for I was the latter's companion on many occasions when he visited his relatives and friends, it seemed worth while to put these papers and memories together as notes for the benefit of my grandson, David Bertram Pollock.

Now that I have completed them, it has occurred to me that they may be of wider interest. The life of one who rose by his own ability and industry from a simple home to eminence makes an appeal to many.

I am conscious that these pages form an inadequate biography of the Lord Chief Baron. At least, it may be claimed for them that they are not too long, and would not have incurred on that score the criticism of my friend the late Sir Edmund Gosse, whose constant complaint of biographies was that they were too much expanded.

With the purpose explained above, and conscious of their many faults, I venture to print them, and will only add my thanks to my friend Sir Francis

Kyffen Taylor, K.B.E., the Judge of the^s Court of Passage at Liverpool, and a brother bencher at the Inner Temple, who has helped and encouraged me, and to my cousins, the Rt. Honble. Sir Frederick Pollock, K.C., who has allowed me to use a number of the letters that follow, and Mr. Hugh Pollock, late of the Land Registry, who has read the manuscript and the proofs, and in many ways corrected my imperfections.

H.

January, 1929.

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TABLE OF DATES

1783. September 22nd. Jonathan Frederick Pollock born.
1800. Went to St. Paul's School.
1803. Matriculated at Cambridge and entered Trinity College.
1806. Senior Wrangler.
1807. November. Called to the Bar.
1816. Elected a Fellow of the Royal Society.
1827. June. Appointed a King's Counsel.
1831. May. Elected M.P. for Huntingdon.
1834. December 17th. Appointed Attorney-General and knighted.
1835. April. Resigned Attorney-Generalship and returned to work at the Bar.
1841. September. Again appointed Attorney-General.
1844. April. Appointed Lord Chief Baron of the Court of Exchequer.
1866. July. Resigned the office of Lord Chief Baron.
1870. August 22nd. Death.

CHAPTER I

PARENTAGE AND EDUCATION

DAVID POLLOCK, my great-grandfather, was born on the 30th October, 1739. He was one of a large family, and came from Berwick-on-Tweed and settled in London, where he became saddler to George III. and his sons. Of his ancestors, or brothers, or sisters, I have no accurate knowledge; nor for the purpose of these notes is it necessary to make exhaustive research. They are intended to be concerned rather with his descendants than with his forbears, or collaterals. Some cousins of mine have made enquiries at Berwick, from which it appears that David Pollock, grandfather of the saddler, married in July, 1697, Elizabeth Tate of Ford.* He was a yeoman of Spittle, at the mouth of the Tweed. The Tates, or Taits, were yeomen of the parish of Etal and owned their own land. There is in Tweedmouth Cemetery a small stone to the memory of David, who died in 1703, and Mary, who died in 1710, children of the said David Pollock and Elizabeth, his wife; and it has been ascertained that David was buried in Tweedmouth on the 16th October, 1743. Another of their children was named John, and was the father of the saddler.

John was born in Tweedmouth, probably between 1699 and 1703. He was apprenticed on the 10th

* See Parish Register of Ford.

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May, 1717, at Berwick to Cuthbert Campbell, was made a burghess of Berwick on the 5th June, 1724, and was buried in the cemetery at Tweedmouth on the 9th April, 1750. Whom he married has not been discovered; but he had several children,* among whom was David, his eldest son, born on the 30th October and baptised on the 5th November, 1739. The Burgess Roll of Berwick shows that he was made a burghess on the 8th September, 1786, "by patrimony as eldest son of John Pollock,"† and this David became the saddler already mentioned.

One incident of the latter's life has been recorded and is worth mentioning. As a child of six years old, he was with his father on the bridge at Kelso, when the latter suddenly lifted him on to his shoulder and pointed out a gentleman in highland dress walking on the bridge. It was the Young Pretender. I suppose the date was early in November, 1745, when the Pretender was marching from Edinburgh and stayed two days at Kelso before passing to Jedburgh on his way to Carlisle. My grandfather, the Chief Baron, used to tell his children, particularly those of his second family, of this incident, because he prophetically anticipated

* The others traced are: (1) Bethiah, baptised 25th January, 1737; (2) Margaret, baptised 19th January, 1741; (3) Barbara, buried 6th February, 1742; (4) Rachel, baptised 14th October, 1744.

† The practice of enrolling members of the family as burghesses of Berwick was continued, for David Pollock, afterwards Chief Justice of Bombay, was enrolled the 17th November, 1806, and my grandfather, the Lord Chief Baron, on the 15th June, 1818.



"THE SADDLER" - DAVID FOLLOCK

From a miniature in the possession of
Hugh Pollock, Esq.

the long distance over which the memory of three generations would extend. My uncle, Sir Edward Pollock, who is still living, can say that his grandfather saw Prince Charlie in 1745—that is nearly 184 years ago.

David Pollock, the saddler, married in London on the 12th December, 1779, against the wishes of her family, Sarah Homera, a daughter of Richard Parsons, Esq. Mrs. Pollock was known to be in a higher social position than her husband; her half-brothers (said to be fine, handsome men) were educated at one of the Universities, and she had two maiden aunts living in Clarges Street, Piccadilly. All these relations seem to have cast her off after her marriage to David Pollock, for in the darker days of debt and difficulty through which she was to pass, not one came forward to her assistance. In person Mrs. Pollock was tall, her eyes were dark and handsome, and a rather severe cast of features agreed with her character, for she was a somewhat stern mother to her young sons. She was, however, a clever woman, to whose character and ability her descendants have every reason to pay just tribute. She introduced the "Pollock face" to her family. The saddler was a keen-eyed, round-faced man, and tradition tells us that he was favoured at Court, and attended the King personally on occasions. His wife was an able woman of much character and purpose; of dignity, as her portrait shows; and of purpose and ambition, as her attention to the bringing up and education of her sons proves. Her second son, William, has left behind him a tribute to his mother written when twelve years old, in

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childish terms, but glowing in its eulogy of her affection and her desires for her child :

“ She wished me well and always hoped to see
Me in a better station far than she.
She thought by wisdom I'd obtain
A name of honour, happiness, and full of fame.”

She determined that her sons should receive all the advantages that could be given them in the way of education. The young couple were living soon after their marriage in a house at the south-east corner of Down Street, Piccadilly, where all their numerous sons were born, and where the business was carried on, and maintained, even after the saddler had moved to a residence in the Royal Mews, then situate on the site of the present Trafalgar Square. Peter Laurie, who was afterwards an Alderman and Lord Mayor of London, 1832-1833, was the foreman of this Piccadilly branch.*

* Sir Peter Laurie had a remarkable career. The following is taken from his *Life*, pp. 42 and 43 : “ A year later, in 1798, at twenty years of age, he finally went to Mr. David Pollock, of Piccadilly and Charing Cross, saddler to H.M. King George III., and shortly afterwards became foreman of the Piccadilly branch, Mr. Pollock himself taking charge of the principal establishment, situated in the Royal Mews at Charing Cross. Here he steadily pursued his ambitious task, and in those days the position was not so common as it is now. To be the Monarch's tradesman, especially in a business connected with personal royalty, and its pleasures and pursuits, was a marked distinction, and ranked the individual who held the appointment as the highest of his class in the Metropolis. Mr. Pollock's establishment had a frontage of six or eight windows, the lower part of an old high-roofed house, belonging to the mews where the Royal stables were, and facing down Whitehall where the statues of Napier and Jenner now stand.”

The eldest son, called David after his father, was born on the 2nd September, 1780. He was ultimately Chief Justice of the Supreme Court of Bombay, and is buried there in the Cathedral.*

The second, William, born the 13th January, 1782, followed his father's trade. He died in 1817.

Frederick, the central subject of this memoir, was the third, born on the 22nd September, 1783.

George was born on the 4th June, 1786, the anniversary of George III.'s birthday, after whom he was named. He afterwards became a Field Marshal and Constable of the Tower, and is buried in Westminster Abbey.†

The next son, John Luke, was said to have been a remarkably clever child, but he did not survive his fifth year.

Three other boys died as infants, but John Henry, the youngest of the brothers, born the 7th July, 1792, survived to become ultimately a registrar of the Bristol Court.

The youngest of the family and only daughter did not live, owing (Mrs. Pollock always maintained) to the age and incapacity of the doctor who attended her birth.

Smallpox was the great scourge of those days, and it soon attacked the two elder babies. David had the complaint most severely, became unconscious and was laid out for dead. In the night his mother thought she heard him cry, and though her husband tried to persuade her it was only her fancy, she went into the room and found the child alive. He was greatly disfigured by the disease, and

* See Appendix II.

† See Appendix III.

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was known in afterlife as "the ugliest man in London," his brother Frederick, who was in the same profession of the law, being called "the handsome Pollock" by way of contrast.

Having had such a painful experience with her two elder children, Mrs. Pollock wished the third son, Frederick, to be inoculated. Her husband, a strict Presbyterian, took the view that such matters should be left to the direction of Providence. Finally, though he would not give his consent, he left the matter in his wife's hands. The child was successfully inoculated, and there was no further question as to the inoculation of the rest of the family.

As a little boy of six years old, Frederick saw William Pitt walking along Whitehall. Someone pointed him out to the child, and anxious to see all he could of the Prime Minister, the boy ran on in front and then turned and waited, looking up at the young man as he passed. This manoeuvre was repeated until Pitt noticed what the child was doing, and looked at him with a smile. In after years Sir Frederick loved to tell this story.

Mrs. Pollock, as has been mentioned, was at times rather severe with her sons, though a good and loving mother to them. One day she reproved Frederick more sharply than he thought he deserved, and while meditating on his wrongs, he found in an old grammar, the quotation: "To err is human, to forgive divine," given as an example. This exactly suited his views. He at once cut out the passage and pasted it on the flap of a table where his mother could not fail to see it. Then he



MRS. DAVID POLLOCK (*nee* PARSONS)

From a portrait in the possession of the author.

went to his day school. On his return the paper was gone, and though no allusion was ever made to it, the kindness of his mother's manner showed him that his hint had not been thrown away.

Frederick was a sickly child, and appears not to have gained his health till manhood's days. He was sent for a short time to a boarding school in Lambeth, whence he was able to pay frequent visits to his home, and was encouraged by his mother to read all the books that he could lay his hands upon.

In a letter written in 1862, when asked to write his autobiography, he tells his own story of these days :

“ My education has generally been ascribed to St. Paul's School, but that is so far a mistake that I did not go to St. Paul's till I was 16 years old, and I had been a year and a half nearly *at no school at all*—a circumstance of some interest in the history of my attainments. During that time I was rather like Frederick* in this respect, I was scarcely ever without a book in my hand, and was reading everything that came in my way—history, biography, literature, Vauban on fortifications, necromancy, palmistry, physiognomy, and a vast quantity of rubbish. Craniology had not then appeared, and Mesmerism was dormant; but the result of all this was curious. I knew so much more about things in general that the boys used to come to me to help them to *construe* passages which I could not translate, and I was frequently very successful. Blomfield used to do the same at College; he would seek my assistance to discover the meaning when he was far the greater master of the mere language. This course of education has been of great service to me,

His grandson, now Sir Frederick.

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and has enabled me to meet the sort of encyclopædic demands that are now made upon every educated man. Courtenay (the *gourmand*), a man of some talent and education and of considerable experience in the world, used to say of me that he never applied to me for information on any subject without getting something, and I could always direct him where to get the rest. At the Bar this has been very useful, especially at consultations and on those odd *turns-up* which now and then occur in a cause."

These schooldays had an unhappy ending.

I give the story as written out for me by his daughter Mary:*

"For one day he had some great difference with the headmaster, Dr. Roberts, and came home and told his parents that he did not intend to go there any more. They acquiesced. But the headmaster, who was also a friend, called and remonstrated, and when he found he could not succeed in altering their decision, said angrily: 'That boy will live to be hanged.'

"Later on he renewed his friendship with Mr. and Mrs. Pollock, and when my father became Senior Wrangler he called to congratulate Mrs. Pollock, adding: 'I always said that boy would fill an elevated situation.' Mrs. Pollock thought of his earlier prophecy.

"For two years (I think) my father remained at home reading all the books he could obtain, and gaining much miscellaneous knowledge. His mother was ambitious for him, and wished him to

* Mary Rivers Pollock, born 1819, lived in her father's house all her life till he died in 1870, and was closely in touch with him. She died in 1912.

CAMBRIDGE

become a clergyman, and he was sent to Trinity College, Cambridge. His tutor was the Rev. George Frederick Tavel, who soon discovered his great mental powers and formed good hopes for his success. For the first year he studied at night, and went about actively in the daytime and generally ran from place to place—and a prize was facetiously offered, to be given to anyone who should see Pollock walking. At the end of his first year he took a first-class in the college examination, and then felt his power and resolved to work hard by day and night. Soon after, however, his father's income became so small that he could no longer afford to pay for a son at college, and my father went to tell Mr. Tavel that he must take his name off the books—and go down. Mr. Tavel thought so well of his prospects that he begged him to remain, and to draw on him for his college expenses, saying that he would ere long be able to take pupils and repay him all he lent him in the meantime. My father accepted this generous offer, and the strong friendship between these two was lifelong. Mr. Tavel made my father trustee for his only daughter, and my father was able, by his care for her interests, in some measure to show his gratitude to his friend."

Tavel's great kindness was never forgotten. In 1811 my grandfather, with other pupils, formed a committee to offer "a tribute of respect and gratitude," in the form of a piece of plate, to Tavel on his quitting the tutorship of Trinity College. Among those other pupils were Blomfield, later Bishop of London, and Professor Monk, afterwards Bishop of Gloucester.* The friendship did not end there, for in 1821, when my father was born, Tavel was

prevailed upon to become his godfather, and he was named George Frederick after him.

Succeeding generations of the family have reason to be grateful to Tavel; for many of their sons have successively been members of Trinity College over some 120 years—five have been scholars and three fellows—and the family arms in three generations are to be found in the windows of the hall.

But I have digressed from my grandfather, Jonathan Frederick. He had gone up to Trinity College, Cambridge, in 1803, and was elected a scholar in 1804. At the close of his life he wrote a reply to a question of his friend, De Morgan, the mathematician, in which he gives interesting details of his work and studies. I am able to quote the letter in full :*

“ I shall write in answer to your inquiry, *all* about my books, my study, and my degree, and leave you to settle all about the proprieties which my letter may give rise to, as to egotism, modesty, etc. The only books I read the first year were Wood’s *Algebra* (as far as quadratic equations), Bonycastle’s ditto, and *Euclid* (Simpson’s). In the second year I read Wood (beyond quadratic equations), and Wood and Vince, for what they called the *branches*. In the third year I read the *Jesuit’s*, Newton and Vince’s *Fluxions*; these were all the books, but there were certain MSS. floating about which I copied—which belonged to Dealtry, Second Wrangler in Kempthorne’s year.

“ I have no doubt that I had read less and seen fewer books than any Senior Wrangler of about my

* See *Memoirs of A. De Morgan*, London, 1882, pp. 387 *et seq.*

time, or any period since; but what I knew I knew thoroughly, and it was completely at my fingers' ends. I consider that I was the last geometrical and *fluxional* Senior Wrangler; I was not up to the *differential* calculus, and never acquired it. I went up to college with a knowledge of Euclid and algebra to quadratic equations, nothing more; and I never read any second year's lore during my first year, nor any third year's lore during my second; my *forte* was, that what I *did* know I *could produce at any moment with perfect* accuracy. I could repeat the first book of *Euclid* word by word and letter by letter.

"During my first year I was not a 'reading' man (so-called); I had no expectation of honours or a fellowship, and I attended all the lectures on all subjects—Harwood's anatomical, Wollaston's chemical, and Farish's mechanical lectures—but the examination at the end of the first year revealed to me my powers. I was not only in the first class, but it was generally understood I was *first* in the first class; neither I, nor anyone for me, expected I should get in at all. Now, as I had taken no pains to prepare (taking, however, marvellous pains while the examination was going on), I knew better than anyone else the value of my *examination qualities* (great rapidity and perfect accuracy); and I said to myself, 'If you're not an ass, you'll be Senior Wrangler'; and I took to 'reading' accordingly.

"A curious circumstance occurred when the Brackets came out in the Senate-house declaring the result of the examination: I saw at the top the name of Walter *bracketed alone* (as he was); in the bracket below were Fiott, Hustler, Jephson. I looked down and could not find my own name till I got to Bolland, when my pride took fire, and I said: 'I must have beaten *that man*, so I will look up

again'; and on looking up carefully I found the nail had been passed through my name, and I was at the top bracketed *alone*, even above Walter. You may judge what my feelings were at this discovery; it is the only instance of two such brackets, and it made my fortune—that is, made me independent, and gave me an immense college reputation. It was said I was more than half of the examination before anyone else. The two moderators were Hornbuckle, of St. John's, and Brown (Saint Brown), of Trinity. The Johnian congratulated me. I said perhaps I might be challenged; he said: 'Well, if you are, you're quite safe—you may sit down and do nothing and no one would get up to you in a whole day.'"

In answer to further questions by De Morgan, he writes :*

"Now for your questions. I did not get my conic sections from Vince. I copied a MS. of Dealtry. I fell in love with the cone and its sections, and everything about it. I have never forsaken my favourite pursuit; I delighted in such problems as two spheres touching each other, and also the inside of a hollow cone, etc. As to Newton, I read a good deal (men *now* read nothing), but I read much of the notes. I detected a blunder which nobody seemed to be aware of. Tavel, tutor of Trinity, was not; and he argued very favourably of me in consequence. The application of the *Principia* I got from MSS. The blunder was this: In calculating the resistance of a globe at the end of a cylinder oscillating in a resisting medium, they had forgotten to notice that there is a difference between the resistance to a globe and a circle of the same diameter."

* *Memoirs of A. De Morgan*, p. 288.

DISCOVERS NEWTON'S ERROR 13

His discovery of the error in Newton's *Principia* no doubt marked him out among the prophets for a high place; and as he was placed in the first class in the college examination in each year, there was little surprise that he was Senior Wrangler in 1806. The story of his learning the result of the examination, as related above, has been often told.

William Bolland, whose name caused his pride to take fire, was elected a fellow of Trinity, but I have not been able to find any further details of his career. He was not to be confused with William Bolland (1772-1840), who was made, in 1829, one of the barons of the Court of Exchequer, and was not only a lawyer, but also a student of Early English literature.

There is one letter written to my grandfather by his father still extant, which at once demonstrates that the family fortunes needed all the contributions available and that the mother was energetic and determined to help her son. The form in which the letter from father to son is couched is curious and, to later generations, stilted :

DEAR JONATHAN,

14th October, 1806.

SIR,

Your 3 Boxes were all sent at One Time and Book'd. I sent this Day to Be Certain. I suppose you have Got it Ere now, if not it is at the Waggon Office. Your Great Coat is above stairs. Say in your next will you have it sent. Mrs. Knight is much Better and Going Next thursday to portsmouth with Mr. K. The Nurse and young Child are to Be here till her return, which is said to Be in about a week. David is on a visit to your Dear Old

polite and agreeable friend Mr. Dray at Hithé but is Expected to return in a few Days. Your Mother is stil in the Old Employ at Falcon Square, But I Believe Ends for the Season this Day, as we are Going to Hampstead on Thursday to meet the Rev. Mr. Wood and Mrs. Do. All's well.

I am, Dear Sir,

Yours Most Respectfully,

D. POLLOCK.

P.S.—Mr. James Durham dined with me yesterday. He Goes to Day to a Lodging at Low Laton to Be near Snaresbrook, where his pupil resides. I am censured for writing short Letters and sending no news. I think you will in future Defend me in Both respects. I have this Day Ordered your two Doz. port and one of Sherry, which will be Sent This Day or tomorrow.

Hornbuckle's prophecy was confirmed, for in addition to being Senior Wrangler he was also First Smith's Prizeman.

This success was the foundation of his fortune. Tavel was repaid and rewarded by his pupil's success for his great generosity. In the following year J. F. Pollock was elected a Fellow of Trinity, after examination by Dr. Raine, then headmaster of Charterhouse School and a great friend of Porson, the Regius Professor of Greek at Cambridge, who lived much in London. The letter that follows from Monk, who was later Bishop of Gloucester, 1830-1856, seems to bring examiner and examinee into somewhat too close relationship; but the examination was then probably little more than a formality, particularly in the case of one who had proved himself *facile princeps* as a Senior Wrangler.

LONDON.

25th September, 1807.

MY DEAR POLLOCK,

I shall be in College on Sunday evening, when I will thank you for the trouble you have had on my account this summer. In the meantime I am going to give you an additional office. Dr. Raine is to examine and elect you fellow—and I am to travel down in a Chaise with him. Now I have promised that you (who sometime or other must be introduced to him) shall procure him Rooms. He will prefer the Second Court. Ewbank's, I think, will do very well, and I will be answerable for their being used. If you have any difficulty in getting these, or Porson's, or others as good, pray speak to Tavel about the matter, with the Dr.'s compliments. Dealtry will be in College at the same time and I believe in the same Chaise.

Ever Yours truly,
J. H. MONK.

Pray order sheets, etc., to be aired.

Pollock was also appointed Commissary of the University, a post of honour now held by his great-grandson, Sir Malcolm Macnaghten, who was recently appointed a Judge of the High Court of Justice. This post he held until November, 1835, when he resigned it, as told later. It brought him a few years after into touch with the Chancellor of the University, then H.R.H. William Frederick, Duke of Gloucester, who became his warm friend—a friendship which lasted to the end of the Duke's life in December, 1834. The Duke became godfather to my grandfather's eldest son, who was named William Frederick, after H.R.H., and

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afterwards succeeded his father as the second baronet.

The independence obtained by his fellowship enabled him to take up the Bar as his profession, and no more was heard of his mother's original wish that he should take Orders. On coming to London, he occupied chambers in Old Serjeant's Inn, at the north-east corner. The house existed when I first came to the Temple in the eighties, but is now swallowed up in the large building of the Norwich Insurance Company. He came with a reputation already made for ability, and was expected to do well in his profession; and he got into some business early in his career—in bankruptcy, I believe. It does not appear to have been of great value in meeting his needs. He had to plough his own furrow with no adventitious help, and to wait in confidence and courage as so many other young men have done, and will have to do.

CHAPTER II

EARLY DAYS IN LONDON

My grandfather was called to the Bar by the Middle Temple on the 27th November, 1807, and took chambers at 18, Old Serjeant's Inn, just off Fleet Street.

By that time his father and mother were living in the precincts of the Royal Mews, now Trafalgar Square, and close to St. Martin's-in-the-Fields, which was the family church. But the troubles of *res angusta domi* continued. It was, no doubt, of value to hold the appointment of saddler to the Royal Family, though that did not always connote payment in ready money, as the following letter proves :

CHARING CROSS.

9th September, 1811.

MY DEAR SON,

I had just come to town upon a very unpleasant piece of business, when I received your letter, the contents of which were very pleasing. I feel a want of words to express my gratitude—this I can say, I am proud of the honour of being your Mother. I don't think many are blessed with such a son ; but I hope it will be returned, doublefold, to you for your kindness to me and your father. Your father continues to receive orders, and in my opinion is doing very well respecting money matters at present. He received the King's—and likewise has taken some ready money—therefore I don't think

he wants any till the latter end of this month : which is Furnall money and that must be paid, and he has no money in hand to pay it, he has got the Duke of Clarence's Bond fully executed. I forgot to mention Hawkes and Gould came due the 28th of this month—which is £70. But we hope you will be in town on your birthday, or else we shall be very much disappointed. John has been very unwell for some-time at Hampstead. Mrs. Bless attended him, but he is now much better and I hope will soon return to town. The Darbys are very kind—I may go there as often as I please. I took a walk with them to Highgate and back, and performed very well. . . . I went to town to invite Mrs. Sampson but she was not in town. I suppose she was at her Brother's. You perhaps may wish to know the unpleasant business I came about—our servant Ann has robbed us and run away—she got at the plate drawer, and took many other things that we have got again. I have had a great deal of trouble about it. My hand shakes so I can hardly write, which I hope you will excuse.

From your affectionate Mother,
S. H. POLLOCK.

It may not be uninteresting to recall the London that he came to, and the course of study for a legal student of that period. Although the population had swelled out into the contiguous parishes, there were many features which recall the county town such as we have known at the end of the nineteenth century. It was possible to find hedges and green fields within the compass of a walk, and the parish was still the centre of life, not yet submerged in a metropolitan area. Indeed, speaking of some twenty-five years later when the family, and he

among them, lived at 26, Bedford Row, my father one day said to me as we drove to the Great Northern Railway at King's Cross: "It seems a great change since Robert (his brother) and I as small boys went out with a catapult to shoot at the birds in the hedges here and at Islington."

I have found among the papers of my grandfather a card, or prospectus, of an academy at Shacklewell Green, West Hackney, where "young gentlemen are instructed in such a course of education as will qualify them either for professional or commercial pursuits," on the terms of twenty-five guineas per annum for board and instruction. The education offered included instruction in Latin, Greek, and French. "Shacklewell is a healthy, retired village, situated between Hackney Downs and the road leading to Stamford Hill."

The country life so near at hand in many cases gave that increased health which prevented the need of the surgeon and doctor at all. But what if one were needed? There is no science in which so great advance, to the increase of happiness and length of days, has been made, to the advantage of the present day over the past.

A journey on circuit may have been the cause of his mother's anxiety expressed in this letter.

(1812).

MY DEAR FRED,

You may better conceive my feelings than I can express them—at hearing of your indisposition, but, however, I am happy to hear you are so much better; long may it continue, and pray take great care of yourself when you travel—and let it.

be as soon as possible—with prudence, excuse my caution. I assure you I long to see you again in London. When your letters arrived I was gone to spend a day or two at Hampstead, with Mrs. Darby, which prevented an answer so soon as you wish it. You may draw upon the Banker to the amount of £50, and should you want any more, let me know and you shall have all that I can do for you with pleasure. You'll receive a letter from John about the same time you receive this. When I read your letter—thinking what you must have suffered—it affected me so I could not write. I hope you will send me word how you are as soon as possible. I shall not be easy till I hear from you again. I can't write more at present.

Your affectionate Mother,
S. H. POLLOCK.

I have found a carefully prepared syllabus for the instruction of a student intending to become an attorney. It is dated the 24th December, 1817, and probably, as all such suggestive plans do, aims too high. The course is to take four years. "For general information the student is to read Henry's *History of England* and then Hume's, Paley's *Natural and Political Economy*, together with Gisburn's *Observations on Paley*, and Beattie* on *Truth*. Franklin's works for style." Next comes the legal programme. He is to read the first, third, and fourth volumes of Blackstone—that is, the volumes on *The Rights of Persons*, *Private Wrongs*, and *Public Wrongs*—the text only. After that he is to read the same volumes a second time,

* James Beattie, 1735-1803. His essay on *Truth* is perhaps the best known of his writings, and was published in 1770.

“referring to every case quoted by Blackstone in illustration of his text.” Then follow Selwyn’s *Nisi Prius Cases* and Peake’s *Law of Evidence*, in the same manner as the three volumes of Blackstone, “never to pass over a single case or position of the text without proving it. Then read *Tidd’s Practice*.” “Oh! what a writer Mr. Tidd is, Master Copperfield,” said Uriah Heap.* And rightly so, for his Practice and Forms do form a monument of erudition of the law of his day. One of the masters used to say in my day—“That is a book.” But it is hard, intricate reading, on the difficult and not alluring subject of procedure, with its many technicalities and pitfalls. Littleton’s *Tenures* is to follow; and Butler and Hargreave’s edition of *Coke’s Commentary on Littleton*—a folio work of 395 pages—is to be read on a plan similar to that laid down for the volumes of Blackstone. Then are to come the second volume of Blackstone on *Rights of Things*, Cruise’s *Digest of Conveyancing*—which is comprised in seven octavo volumes—and Fonblanque’s *Treatise on Equity*. At the end of this, so concludes the syllabus, “he will be equal to any lawyer, whatever!”

This table is of more than antiquarian interest. It shows that the textbooks so abundant to-day were not available for a pupil then, and the science of law was then to be studied and found in those great masters—Littleton, Coke, and Blackstone—which to-day are hardly resorted to by the practitioner, however surely they hold their position for the jurist. Statute Law bulks far larger

* *David Copperfield*, chapter xvi.

to-day than it did then. The reforms which followed—even if they were not the actual outcome of Lord Brougham's great speech in the House of Commons, in 1828, which occupied over six hours in delivery and during which he consumed a hatful of oranges, "the only refreshment then tolerated in the House"*—have changed and rendered obsolete most of the books referred to in the syllabus. Case Law has been multiplied in series of reports, and has made research to more distant days unnecessary except in cases before the higher tribunals. Yet it is of interest to remember with what weapons and from what sources our grandfathers were armed and equipped for their forensic battles.

We may pay a tribute to their knowledge of principles and industry in searching through heavy volumes, while we remember how much digests of cases, tables of statutes, dictionaries, and encyclopædias of law and precedents have lightened our own tasks in preparing arguments in particular cases. From bills that I have found it appears that about £30 a year was the sum required to keep a busy lawyer in possession of the several numbers of the Reports when they were issued regularly for each Court, together with the cost of binding them into volumes. At any rate, that is the sum spent by my grandfather in the years 1834, 1835, and 1836. For similar provision, thanks to the Incorporated Society of Law Reports, that cost to-day would be some £10.

In the year 1807, when my grandfather began his career, Lord Ellenborough had been five years on

* Atlay's *Lord Chancellors*, vol. i., p. 284.

the 'Bench' as Lord Chief Justice of England—a forcible, if hasty and somewhat intolerant, judge. It was his opposition, together with Lord Eldon's, which in a large measure succeeded in delaying the relaxation of the scale of punishment in our Criminal Law.

Sir James Mansfield was Chief Justice of the Common Pleas. He had been counsel for Wilkes in 1768, and as Solicitor-General he was one of the counsel who prosecuted Lord George Gordon in 1781. It was not until he was seventy-one that he was appointed to the Common Pleas, where he remained for ten years.

The Chief Baron of the Exchequer was Sir Archibald Macdonald, who was more distinguished as a raconteur than as a lawyer. He challenged Sir Frederick's own record in length of service, for he sat as Lord Chief Baron for over twenty years—1793 to 1813.

CHAPTER III

AT THE BAR

My grandfather was called to the Bar, as I have already stated, in Michaelmas term, 1807, although he continued to be at Cambridge and to do some coaching in 1808. No doubt he was equipping himself for the stern struggle that was before him to maintain himself at the Bar, and, if possible, contribute to members of his family. Tavel was still his support, and encouraged him. Writing from Cambridge :

2nd July, 1808.

MY DEAR FELLOW,

With the greatest pleasure I enclose you a draft for seventy pounds : be assured that my connexion with you has proved to me a source of uninterrupted gratification.

I am delighted at hearing of your auspicious Debut in the law. May success attend you with steps equal to those which have advanced you here.

God bless you.

Yours, etc.,

G. F. TAVEL.

Acknowledge by a letter the receipt of this.

The coaching appears to have come to an end in 1808, and at the close of it Tavel sends the first payment due to him from his fellowship—not failing in a postscript to add a further contribution from his own resources :

MY DEAR SIR,

With Christmas congratulations I send you enclosed something more substantial, the first fruits of your College prowess. Your legal achievements will, I hope, soon blaze in public and be crowned with richer lore, so that by the expiration of your fellowship you may hardly miss the failing dividend as a mere infinitesimal of your income. Lord Euston* is not at present at home, and I have already so much trespassed on the Duke† that I fear I shall not be able to get this franked. I must run my chance of the former's return—as you probably are somewhat anxious upon the subject I do not like to defer any longer.

Believe me,

Yours sincerely,

G. F. TAVEL.

EUSTON,

THETFORD.

26th December, 1808.

Acknowledge the receipt of this under cover to the Earl of Euston, Euston, Thetford.

N.B.—For the first year, presuming that you have not yet arrived at a state of superfluity, I send you a draft out of my own little stock with such little interval of date as may give security to the conveyance : another year you will have to wait until the Bursar's draft to me is payable.

It is clear that however attractive it might be to collect a sure income from college work or teaching at Cambridge, the demands of the Bar—that stern mistress who has to be wooed and obeyed without a

* Then M.P. for Cambridge University.

† Augustus Henry, Third Duke of Grafton, 1735-1811, was Chancellor of Cambridge University, 1768-1811.

rival by almost all suitors—had made her demands felt.

Early in 1810, Tavel writes :

DEAR POLLOCK,

As it is possible from your statement of Carter's views and prospects, of expediency that your rooms may remain at present unoccupied, allow me to beg of you the disposal of them for the two ensuing terms : I do assure you, to compare great things with small, that no minister was ever more embarrassed with the raising of his supplies than I am at present with the execution of my engagements and promises about that old botheraceous subject of rooms. I hope you will excuse me for this application from the consideration of its being conducive to the ease of my arrangements.

Term having recommenced, I hope business is going on rifely with you. In a short time you will again hear from me with supplementary supplies, and believe me with the sincerest regard and esteem,

Dear Pollock,

Yours sincerely,

G. F. TAVEL.

EUSTON,

THETFORD.

2nd February, 1810.

P.S.—The person whom I should wish to borrow your rooms for is Sir William Hort, a Ward of the Marquis of Lansdowne, to whom I made more of a promise than perhaps I ought to have done ; but I have been more cramped upon that head than I could then have suspected. I return to Cambridge to-morrow.

Upon the death of the Duke of Grafton, the Chancellor, on the 11th March, 1811, there was a

contest on the election of his successor. The candidates were William Frederick, the Duke of Gloucester, only son of William Henry, Duke of Gloucester, the brother of George III.—by his wife, the beautiful niece of Horace Walpole, who had first married and was the widow of Earl Waldegrave. William Frederick was born in 1776, and took his M.A. degree in 1790. The other was the fifth Duke of Rutland, who was Recorder of Cambridge. J. H. Monk and Tavel at Cambridge, and Pollock in London, espoused the cause of the Duke of Gloucester. The following was written when the Duke of Grafton's death was imminent.

CAMBRIDGE.
7th March, 1811.

DEAR POLLOCK,

I hope you have ere this received 3 Doz. of Trinity Ale. I now give you a line of information, which may probably be of some use to you. The Candidates for the Chancellorship are the D. of Gloucester, and (we just learn) the D. of Rutland. Trinity College will principally support the former, St. John's the latter, not from love, but from interest, in order to purchase the Rutland's support for Lord Palmerston, who is Candidate for the Representation, and opposed by J. Smyth. We understand that there is not the least idea of any other person appearing on either arena. I think you will not feel much difficulty in deciding; your friends will be almost universally with D. of G. and Smyth, and a great push must be made in the last case, as it is the resolution of the Johnians to exclude us from the representation for ever. I wish you much to take as active a part as your legal avocation will allow in each election. I really mention this for two

reasons: the benefit which the cause will receive from your co-operation and my desire that you should be known on these occasions. I write this, concluding from all I ever collected from you that your wishes lie with us. If you can, I do wish you to be the prominent man in town.

The Johnians are canvassing hard already. J. Smyth cannot, as Grandson of the D. of Grafton, move till his death, which is hourly expected.

I mean to take as active a part as I can, being determined in a case where my judgment clashes with my interest, to follow the former.

Let me hear from you.

Ever yours,
J. H. MONK.

Date obscure.

DEAR POLLOCK,

You will find that all the letters have been more expeditiously sent off than you were aware of and your prejudged adjective is therefore too late. At present my time in writing private applications is too much and too well employed to allow of dawdling upon courtesy and phrases. In 2 or 3 days when we have received answers we may begin upon those communications. Smyth will tell you the result of his Cambridge trip.

D. of Gloucester goes on well.

Yours truly,
G. F. TAVEL.

CAMBRIDGE.

17th March, 1811.

DEAR POLLOCK,

You are employed, like myself, for our good causes. We have sent off letters for every vote, in each case, and with an unprecedented expedition owing to the exertions of 4 or 5 of us, and of 3 or

4 young men, who worked under my orders with uncommon diligence. We have sent off lists which will complete yours to Mr. Lambe. The D.'s Committee has these already. What we have been doing, and shall continue to do, is to make out modes of private application. These we will send you daily. You in turn must aid in this, as it is the only effective mode of procuring distant votes, and this operation secured Lord Grenville's Election.

Nothing that can be pointed out to us as likely to do good shall be omitted. You must freely communicate with us. Tavel, Doyley, Pepys, Kaye, Currey, and myself are the principal agents here.

We apply each to his private friends with recommendations—and you must do the same.

Ever most faithfully yours,
J. H. MONK.

N.B.—The Duke's cause must be kept free from the appearance of party.

Urge to Trinity men that Smyth's is a College cause, and that the Johnians are endeavouring utterly to exclude us from the representation (looking forward to Law as likely to fill another vacancy). We are here almost unanimous for Smyth.

Undated.

DEAR POLLOCK,

Thank you for your letter and your roll; your activity has not yet been called forth. The circular letters are *all* of them *sent* off *hence*, and all that you have to do is to write private letters to friends and to their connexions. I have been busy for these 3 hours in picking out the votes of the last two years and have sent them to Mr. Lambe, who will communicate them to you and Harrison, for the D. of Gloster's Committee. I must for the present break

off to write private letters—the remainder shall be sent by to-morrow's post,

Yours truly,
G. F. TAVEL.

Undated.

DEAR POLLOCK,

I am delighted with your numbers, and although our list to-day is not so numerous as the preceding one, I have little doubt but that we shall encompass 450 and three others paired. Don't fail to give me your amended numbers for to-morrow night and then for a Royal discharge on Tuesday. Our brisk fire on the Wednesday will, I think, astonish the Palmerstonians. In short, we have every encouragement not to flag—but to push on nobly.

Yours truly,
G. F. TAVEL.

DEAR POLLOCK,

I believe now that roads, horses, and beds are all secure : between us likewise I hope that the *votes* will do. I think a turn above 400 may decide the matter, and your number for Thursday night bid fair for it. I hope even to-morrow's account may set us easy. The Rutlandites, to be sure, talk big and depend upon the hunting Aristocracy of the country—but I hope we shall hunt 'em out.

Yours, etc.,
G. F. TAVEL.

TRINITY COLLEGE,
CAMBRIDGE.
23rd March, 1811.

The election took place on the 27th March, when Tavel's hopes were more than realised and the Duke of Gloucester headed the poll. The figures were :

Duke of Gloucester	468
Duke of Rutland	351
Majority	117

On the 20th June William Frederick was duly installed, and gave a great banquet to a company numbering nearly one thousand in the cloisters of Neville's Court of his own college, Trinity.*

The reference to the Palmerstonians and Johnians in the above letters is to the other contest, which was also caused by the death of the Duke of Grafton and his son, the Earl of Euston, succeeding him. This created a vacancy in the Parliamentary representation of the University, and the election took place on the day following that for the new Chancellor. The candidates were Lord Palmerston and F. Smyth. The former was elected, the figures being, Palmerston, 451; Smyth, 345.

Weaned from Cambridge, my grandfather worked on the professional grindstone. He joined the Northern Circuit—the choice of this being due to the connection of his family with the North—and appears gradually but surely to have won his way.

I cannot find any confirmation of the statement made by some writers that he quickly got into practice and did not have to sit waiting for briefs. Nor does it seem likely that “he distinguished himself first at the Blake court martial in 1810.”† I have been unable to trace such a court martial.

On the 5th and 6th February, 1810, there was a court martial held upon the conduct of Captain the

* Gunning, *Reminiscences*, II., 277.

† See *Law Times*, 5th May, 1894, and Foss.

Hon. Warwick Lake, Commander of *H.M. Sloop Recruit*, for causing a seaman, Robert Jeffery, to be landed on the desert island of Sombrero on the 13th December, 1807.* Lake admitted that he had landed Jeffery as alleged, and, after evidence given, Lake was ordered to be dismissed from H.M. Service. But Best was the counsel who acted as prisoner's friend at the trial, and after reading the evidence I can find no trace of Pollock having been engaged in it.

Foss† states that—

“His business there (on circuit) was greatly increased before he had been three years at the Bar, by his very able and judicious management on the part of Captain (afterwards Admiral) Blake in the famous trial of Colonel Arthur before a court martial for his implication in a rebellion against the Captain while Governor of New South Wales.”

There was a court martial held in May, 1811, at Chelsea Hospital; but it was for the trial of Major Johnston, of the 102nd Foot, for forcibly deposing Captain Bligh, who was Governor of New South Wales.

John Macarthur, “the father” of New South Wales, gave evidence on behalf of Johnston, who, nevertheless, was convicted and dismissed.

There is clearly some confusion, and I cannot find that my grandfather was engaged in the court martial, although there are letters which show that

* See *Annual Register*, 1810, pp. 255, 264, 278, and 283, and Report of the Court Martial in Public Record Office, Admiralty Section, in Letters 5402.

† *The Judges of England*, 1864.

he was on terms of friendship with Admiral Bligh and his wife. Some business in bankruptcy had given him a beginning, but he was not immune from the depression which affects most young men during their early years at the Bar, when the clouds are heavy and there appears no break in them. He writes from Carlisle, where he is staying for the Assizes, to his lifelong friend, Tom Wilde, afterwards Lord Truro and Lord Chancellor :

NORTHERN CIRCUIT.

Wednesday, 21st August 1811.

MY DEAR T. W.,

. . . I may add as an apology for not complying with your known wish to hear from me in the first instance, and my not answering your letter sooner, that my spirits are not generally on the circuit in such a condition as to induce me to commit my thoughts to paper—the maxims of my Philosophy induce me to enjoy all the good I can and to become insensible to the ills which menace me. When I am not disposed to think pleasantly, I endeavour not to think at all and to shut myself up in a sort of tortoiseshell of apathy; for this apathy I have often found occasion on my present Journey. When I find myself spending in Counties, where I have no connection and, of course, no employment, the produce of a precarious and almost accidental town business with no certainty even to a general intent, as Lord Coke has it, that the income of the next year may not fall short of the necessary expenditure, without a single client (although I have been near four years at the Bar) who employs me because he wants my assistance and some of my warmest expectations approaching to complete disappointment: when in addition to that I consider

the situation of the rest of my family, I have little place for that *gaiete de cœur* which once attended every pulsation and which is necessary to continue a correspondence on a journey supposed to be pleasurable.

On 1st September, 1815, his father, who was then some seventy-five years of age, died in the presence of his three sons, William, Frederick, and John, and the responsibility of looking after their mother fell upon them. Fortunately, she was a woman of good business understanding, and her qualities were recognised, so that with the least possible delay, on the 15th September, she was appointed to succeed her husband as saddler to the Royal Family. This enabled her to continue in her residence at Charing Cross and gave her an estimated profit income of £200 to £300 a year.

The letters from my grandfather to his brother George in India telling of these events contain also a record of his own position at the time as well as a tribute to his father.

23, BERNARD STREET,
RUSSELL SQUARE,
3rd September, 1815.

MY DEAR GEORGE,

. . . I hardly know whether your distant residence and the long time that has elapsed since you left us will make the privation less to you. For years you have not seen him, and you have, I believe, heard very little from him, but you remember him as he was twelve years ago. You have not witnessed the gradual decay of declining years, not been called upon by occasional indication of mortality to contemplate his end. His age was consider-

able, beyond the common stretch of human existence. Next October he would have been 75, according to his own account—according to his sister, Mrs. Surtees, 77.

He had enjoyed health, almost uninterrupted, for more than 50 years, and, although he married late, he lived to see 5 sons grow up, and to see or hear of more grandchildren.

His life was useful, as so private a one could be, and, although he never enjoyed much wealth, he had sources of happiness which must upon the whole have rendered his life happy as well as long. Few men with so few advantages have done so much both for himself and family. He had a very good understanding and more talents than he ever cultivated.

Religion was the subject upon which he had thought and read and written most. His temper was remarkably even and uniform, and his practical philosophy or disregard of all small evils, superior to anything I have met with in any other person. In his family he was extremely affectionate. His fondness for us when young and his readiness to make any sacrifice for us as we grew up must endear his recollection to his children, and might furnish an example very rarely to be met with. I confess till I saw more of the world I did not know his value; but I have often said lately such another Father I never knew. Faults he must have had—vices none, but I proposed not to portray his character, but only to mark out some traces of the excellence he possessed and by which we are to remember him as long as we remember anything.

* * * * *

I am glad to hear so favourable an account of your circumstances. My own are very well. I am out of debt, having paid off what I borrowed of

Hodges. I am worth about £400 besides the reversion I mentioned to you, which from the altered price of corn is only £200 per annum. My life is insured for £5,000, and I mean to increase it next year.

The saddler was buried in the vaults under St. Martin's-in-the-Fields,* the church that was close to his house.

A second letter gives further details :

23, BERNARD STREET,
16th September, 1815.

. . . and now I have only to give you a short notice of each of the family. David has been very successful lately, and has before him the prospect of an increasing income, to meet the expenses of his increasing family.

William's health is still precarious, though we hope as he has fought so long that he will at least overcome his complaint.

John will be out of his articles in January, and will then be able to support himself. He is very well. I have myself been very well. In point of business I have done better than last year, though it has not been so lucrative. I do not expect I shall make more than £1,400 this year, which is scarcely more than I shall spend.

My grandfather had not a startling forensic manner which brought him a sudden success ; though at one Assize at Lancaster he made such a mark in the conduct of a case that at the next he had a plenty of briefs.

* His wife was buried there in 1817, and my grandfather's first wife in 1827.

During the course of the summer circuit in 1824 he writes to his friend, John Wray :

YORK (In Court).
Tuesday, 3rd August, 1824.

MY DEAR WRAY,

. . . We have a moderate entry of cases here. I am not in less force than in the Spring but cannot as yet say anything of any increase.

A visitor to the Assize Courts, who heard him in 1827, describes his work as follows :

“In the first cause Mr. Serjeant Cross was Counsel for the plaintiff, and stated the case in a speech not remarkable either for clearness or fluency. The action was brought by the assignee of a bankrupt against a person who owed money to the estate. The witness for the plaintiff told a simple strait forward story and the matter appeared clear beyond question; but Mr. Pollock set up a defence which had not been anticipated about a previous settlement and produced a receipt which according to his statement made the case quite as clear on the other side—from the extraordinary candour of his manner I had not the least doubt he was pleading the cause of truth, yet I thought his speech too much laboured—he repeated some things more than once and dwelt rather tediously on the evidence of the plaintiff. There is a simple and manly earnestness in Mr. Pollock which is very prepossessing, he speaks with energy and clearness; his language is good and his action better perhaps than any of the counsel on the circuit. Yet he is too uniformly solemn and never rises into eloquence; he is a very sound lawyer and is said to be perfectly acquainted with the bankruptcy business in which he has a great practice in London.”

In the trial scene described by Samuel Warren in *Ten Thousand a Year* (published 1839¹⁸⁴¹), which was supposed to have taken place about 1826-1827, he is described as :

“ Mr. Sterling, the second counsel for the defendant, was a King’s Counsel, and a rival of Mr. Subtle upon the circuit. He was a man of great power; and, on important occasions, no man at the Bar could acquit himself with more distinction. As a speaker, he was eloquent and impressive, perhaps deficient in vivacity; but he was a man of clear and powerful intellect; prompt in seizing the bearings of a case; a capital lawyer, and possessing, even on the most trying occasions, imperturbable self-possession.”*

This style and manner remained with him throughout his career. From a biographical notice of him given in a Monmouth newspaper at the time of Frost’s trial—described later—I have extracted the following :

“ He has been known to the Bar for the powerful advocacy of every cause in which he embarks. There is a manly earnestness in whatever he says or does that long since gave him an important lead on his circuit. His eloquence, it is true, did not emulate the boiling surge of the Mexican Gulf to which the overpowering eloquence of a Brougham

* The other actors in the scene were as follows : *Counsel for the Plaintiff*.—Mr. Subtle (Sir James Scarlett), Mr. Quick-silver (Henry Brougham), Mr. Lynx (Sir W. Wightman). *Counsel for the Defendant*.—The Attorney-General (Sir John Copley), Mr. Sterling (Sir F. Pollock), Mr. Crystal (Sir Creswell Creswell).

has been likened, nor did he possess the insinuating conversational tone of a Scarlett, which, addressing itself to one Terryman, sought to make that Terryman both a friend and a partizan. Pollock's style is far different, his heart and his head seemed to go *pari passu* and his success has been equal to any of his early contemporaries."

The only contact of then living memory with my grandfather at the Bar that I am able, personally, to adduce is derived from my great friend and benefactor, Mr. Justice Manisty. I had the honour of acting as marshal to him on many circuits. Manisty, when a solicitor's clerk in the firm of Meggison Pringle and Co., had delivered a brief to my grandfather before 1834, and he confirmed the estimate in which Sir Frederick was held, as being in accordance with what I have extracted above.

Pollock took silk in 1827. His patent is dated the 12th June, 1827. At that time the King's Counsel received wages, so that the patent runs on—

"And further of our more especial grace, we have given and granted, and by these presents do give and grant unto the said Jonathan Frederick Pollock for the exercise of the office aforesaid the wages and fees of forty pounds of good and lawful money of Great Britain yearly to be paid to him the said Jonathan Frederick Pollock out of our treasure at the receipt of our Exchequer at Westminster by the hands of our Treasurer or Commissioners of our Treasury, Under-Treasurer and our Chamberlains there for the time being to have hold enjoy and receive the wages and fees to the said J. F. P. during our pleasure."

The form of the patent may be of interest hereafter, and I have set it out in an Appendix.*

Horace Twiss, then M.P. for Wootton Bassett, and later the biographer of Lord Eldon, and John Campbell, afterwards Lord Campbell and Lord Chancellor, were made K.C.'s at the same time. The latter, in a letter to his brother, gives the following account of the ceremony before the Lord Chancellor, Lord Lyndhurst :

“ I wish you had seen the swearing in yesterday. We were in the Chancellor's private room in the House of Lords. They made us kneel down and swear that we did not believe in the damnable doctrine of Transubstantiation. I could hardly preserve the gravity becoming such a SOLEMN ceremony. There was a general laugh when, on reading poor Twiss's patent, it turned out that he was expressly told by the King that he was to have NO WAGES, whereas our Royal Master allows the rest of us £40 a year. This exception in Twiss's patent is to preserve his acceptance of the office from vacating his seat in Parliament.”†

Ten days after taking silk he was made a Bencher of the Inner Temple, to which he had been admitted a member in November, 1824. It was not uncommon for a barrister to join a second Inn of Court for the purpose of holding chambers in one or the

* “ In 1831, the Whigs—I think rather capriciously—cut off the salary of the Attorney- and Solicitor-General, together with the wages of £40 a year formerly allowed to the King's Counsel ” (See per *Lord Campbell*, vol. ii., p. 144).

† See *Life of Lord Campbell*, by Mrs. Hardcastle, published 1881, vol. i., p. 446.

other according to the convenience of his practice as it developed. When Lord Abinger was made Lord Chief Baron in 1834, my grandfather took over his chambers at 2, King's Bench Walk—which is a part of the Inner Temple—and he was Treasurer in 1837.

But, to return—in silk his great opponent on circuit was Brougham, and a letter of Macaulay's may be referred to, proving the keen contest between them.*

Letter from Lord Macaulay.

LANCASTER.

1st September, 1827.

MY DEAR FATHER,

. . . We have circuit anecdotes, to be sure, and perhaps you will be pleased to hear that Brougham has been rising through the whole of this struggle. At York Pollock decidedly took the lead. At Durham Brougham overtook him, passed him at Newcastle, and got immensely ahead of him at Carlisle and Appleby, which, to be sure, are the places where his own connections lie. We have not been here quite long enough to determine how he will succeed with the Lancastrians. This has always hitherto been his least favourable place. He appears to improve in industry and prudence. He learns his story more thoroughly, and tells it more clearly, than formerly. If he continues to manage causes as well as he has done of late he must rise to the summit of the profession. I cannot say quite so much for his temper, which this close and constant rivalry does not improve. He squabbles with Pollock more than, in generosity or policy, he ought to do. I have heard several of our younger men wondering

* *Life of Lord Macaulay*, by Trevelyan, vol. i., chap. iii.

that he does not show more magnanimity. He yawns while Pollock is speaking : a sign of weariness which, in their present relation to each other, he would do well to suppress. . . .”

The duel appears to have ended at Lancaster in Pollock’s favour, for, writing on the 18th September, Campbell goes on to say :* “ Frederick Pollock, my great rival, has acquired immense glory on the Northern Circuit by getting ahead of Brougham.” They remained, however, always on good terms, even though their politics and their natures were antagonistic.

I have always learnt from my father that the difference between the two men was well marked by the soubriquets chosen for them by Samuel Warren in his court scene, already mentioned, in which Brougham figured as “ Mr. Quicksilver,” my grandfather as “ Mr. Sterling.” The latter gave less “ copy ” for the Press, less entertainment to the Court ; but Brougham starred the case to his own glory, while Pollock set out to win for his clients, with the result that in a short time my grandfather’s briefs increased in geometrical proportion, while Brougham’s declined.

He records his success, and the fatigue which necessarily accompanied it, in the following extract from a letter to his son : †

* *Life of Lord Campbell*, vol. i., p. 448.

† His eldest son, Sir W. Frederick Pollock, to whom many letters that are set out subsequently are addressed.

NORTHERN CIRCUIT,
YORK.*Monday evening, 30th March, 1829.*

Jonathan Martin is to be tried to-morrow for burning the Minster. Martin Slack was hanged to-day (he was tried on Friday) for poisoning his illegitimate child, with Aqua Fortis. My table groans with briefs, and the heaviest business is yet to be done. This is nearly all the York news. You may tell Aunt Mary I shall get altogether more money at York than I ever did before, and I got at Lancaster more than I ever did except once.

As to my health, about which she is apt to enquire, I know very little more than that I eat, drink, and sleep, and am decently fit for business. I am rather tired of the Circuit and shall be glad of some change—without being very particular as to its nature. I get old and stupid and worn out and indifferent, and have just curiosity enough to wish for a glance at the Shield of Minerva that I might take my seat in some Cathedral as a marble statue, and take no more trouble and give very little, except to be dusted now and then.

The swift execution of a death sentence which this letter records seems remarkable in present days. To be tried and sentenced on a Friday and hanged on the Monday following probably indicated unusual haste, for otherwise it would not have been mentioned.

There was no appeal to a Criminal Court of Appeal, and hangings were a common spectacle after an Assize. It will be remembered that Bellingham, who shot Perceval in the Lobby of the House of Commons on the 11th May, 1812, was convicted and hanged on the 18th, within seven days of the

murder. But Sir James Mansfield, who tried him, lost some reputation in his haste to carry justice into execution by refusing to adjourn the trial so that witnesses could be fetched—from Liverpool if my memory serves me—to offer evidence as to the accused's state of mind.

The same success attended the Summer Circuit in the following year. Pollock writes to his same correspondent, John Wray :

*Monday, 16th August, 1830, about
2 o'clock. (In Court at Carlisle.
Brougham leading a prosecution
for assault.)*

MY DEAR WRAY,

It is some time since I have heard from you or written to you. I suppose, therefore, to fill up a little leisure that may come on me (nathless do not suppose but what I have Briefs to read if I did not prefer the pleasure of writing to you to reading the Briefs in which I have consultations to-night). First, I am tolerably well, enjoying health of body and peace of mind—the *mens sana in corpore sano*. Secondly, as touching my temporal affairs, they are very prosperous; we have got through half the Circuit and I have bagged more guineas in spite of the Elections than on any former summer circuit. I am, however, here reminded of a grievous loss which occurred to me at York and which will be irreparable unless Mary Wray, out of her abundant goodness to all the world and her regard for me in particular, will assist in consoling me. In a word, my pocket was picked by a *blue* mob—the left-hand unmentionable pocket was turned inside out. A beautiful red silk purse worked by fair and delicate hands, and which I kept as a memorial of much excellence and condescension, was snatched from

me for ever—with a half sovereign at one end and half-a-crown and 6d. at the other, and I have never since seen money or purse. With the exception of this disaster, my affairs have flourished exceedingly. At York I dined with J. and Bishop and took Fred,* or rather Brougham took him. At Durham he dined with the Bishop, and on Wednesday and Thursday he will dine with Brougham and Lord Lonsdale respectively—that is, if I can get there. In the meantime he reads a great deal. Holt spirits him in the matter of Greek Choruses and I teach him Algebra, in which department I have lately taken a great fancy. To Diplomatic Problems I have used or wasted many hours thereon. We shall get to Appleby on Saturday and to Lancaster on Sunday next, and then the Circuit will be over in a fortnight *or so*.

The preference given to writing a letter before reading his briefs need not give rise to the inference that he did not read them, for his quick and receptive mind grasped the contents of his papers rapidly. There is, however, a story told of him at an earlier date by Lord Alverstone† in his *Recollections of Bar and Bench* (published 1916), which may be cited on the other side.

“Speaking of Sir Frederick Pollock reminds me of a story of him which was current at the time. I remember repeating it to him, and on asking him whether it was true, he admitted that there was some foundation for it. At the time to which the story

* His eldest son, born 1815.

† Lord Alverstone as a young man at the Bar was a frequent visitor at Hatton, where the Lord Chief Baron then resided.

relates he was the leader of the Northern Circuit. Chief Justice Abbott,* afterwards Lord Tenterden, was presiding at the Yorkshire Assizes, which were then held at York only, and Pollock had to open the case for the plaintiff in a very heavy dispute about a colliery contract. He was called at five o'clock in the morning in order to read his brief, but happened to take up *The Heart of Midlothian*, and was so interested in it that he never touched the papers until breakfast-time. The Court in those days sat at nine, and there was therefore no chance whatever of his mastering the case so as to present it in a proper form to the jury; he found, too, that some two or three hundred letters had passed between the parties. Accordingly, with the greatest coolness, he said to the jury :

“ ‘I could not better present the facts of the case to you, gentlemen, than by using the language of the parties themselves, and I shall therefore read to you the correspondence which has passed in chronological order.’ ”

“ This he proceeded to do, and had continued reading for nearly an hour, when Chief Justice Abbott,† who was very much afraid of Pollock, thought it was time to intervene. ‘Mr. Pollock, is it absolutely necessary for you to read all this correspondence? Cannot you condense it a little?’ To which Pollock replied : ‘Absolutely necessary, my Lord, for I never read it before.’ Of course, in the face of such sublime impertinence there was nothing more to be said, and the case proceeded. As I have stated, the Chief Baron admitted that the incident was in the main true.”

* The Lord Chief Justice of England, 1818-1832.

† Created Baron Tenterden in 1827.

The Heart of Midlothian makes an unusual appeal to lawyers. The trial of Effie Deans, with the discriminating examination of the Statute under which she was prosecuted, and the careful statement of the practice of the Scottish Law Courts in the first half of the eighteenth century, cannot fail to arouse and engross their attention.

It is clear that from 1827 onwards he held a secure position as leader of the Northern Circuit, and in the autumn of 1830, not many weeks after the Circuit ended on which he described his temporal affairs as very prosperous, he was offered a puisne judgeship by Lord Lyndhurst. The Lord Chancellor sent for him to come and see him, and when my grandfather declined the offer, Lord Lyndhurst asked him whom he would suggest as a suitable appointment. My grandfather named Alderson,* who was a few years his junior, but who likewise had been at Cambridge Senior Wrangler and First Smith's Prizeman in 1809. The Lord Chancellor approved the suggestion, which had probably already occurred to himself, and asked that my grandfather should send his carriage, which was in waiting, to the Temple to fetch Alderson. This was done; and Alderson accepted the post, and took his seat in the Common Pleas, being afterwards transferred in 1834 to the Court of Exchequer.†

* Sir Edward Hall Alderson, 1787-1857.

† See also *Campbell's Life*, vol. i., p. 485.

CHAPTER IV

COMMISSION ON DEFECTS OF THE LAW— ATTORNEY-GENERAL

IN consequence of Brougham's motion that a Royal Commission should be appointed "for inquiring into the defects occasioned by time and otherwise in the laws of this Realm and into the measures necessary for removing the same," which was the occasion for his great speech on the 7th February, 1828,* already referred to, a Commission was appointed on the 16th May, 1828. The Commissioners made successive reports—the first on the 18th February 1829; the second on the 26th February, 1830; and the third on the 6th July, 1831. On the 26th June, 1830, William IV. came to the throne, and a number of Statutes were passed to carry out the recommendations of the Commissioners.

On the 10th March, 1831, the Commission was reappointed and enlarged, and Jonathan Frederick Pollock—as he was then still called—was added to it, together with Thomas Starkie, whose name remains with us as the author of a well-known work on Libel, Joshua Evans, and William Wightman, afterwards Wightman J. They published the fourth

* The Commissioners were J. B. Bosanquet, H. J. Stephen, E. H. Alderson, James Parke, and John Patteson, all of whom, except Sergeant Stephen, were raised to the Bench in course of time.

report on the 1st March, 1832; the fifth on the 29th April, 1833; and the sixth on the 13th March, 1834. This latter related to the regulations and practice of the four Inns of Court, respecting the admission of persons to be students, or to be called to the Bar, and contains some interesting information as to the customs obtaining at the time, and led to the appeal to the Judges from the Benchers being established.

My grandfather appears to have acted as chairman and signed all the three later reports as the First Commissioner. The fifth report deals with the inferior courts, their defects both in the matter of their distribution, their practice and procedure, and suggested the establishment of new "Local Courts," a suggestion afterwards adopted by the creation of the County Courts in 1846.

The fourth report is more interesting and affords some grim entertainment. It deals with the question of arrest upon mesne process and imprisonment for debt, and gives an historical survey of the use of these powers and the existing abuses relating to them. It shows that the system, as it then was worked, had grievous defects, and failed of its purpose to secure payment of debts due.

"The very power of arrest by which each creditor expects to recover the payment of his own debt tends to prevent creditors from accepting an equitable composition or assignment for their general benefit; and the distress and irritation caused to the debtor frequently dispose him to resistance, rather than to the making a cession of his property."*

Such was the result, as we all know, upon Mr. Pickwick, who declined to yield to the compulsion of Dodson and Fogg. The report traces by argument and explanation the benefits of developing the Law of Insolvency, to the disparagement of the summary methods left in the hands of creditors. Yet Serjeant Stephen presented a dissentient report upon the subject of imprisonment for debt, holding that the system ought to be preserved.

“It may be useful to remark that it is more easy to relax the law of debtor and creditor than after an injudicious relaxation to restore the former strictness.”

Reforms in legal procedure come slowly, and it was not until 1869 that full effect was given to the report of the majority, and that imprisonment for debt was abolished except in the case of those who have the means to pay but contumaciously refuse to do so.

The work of this Commission ended in 1834. It had entailed a considerable burden upon my grandfather, then in the full tide of work as leader on the Northern Circuit, and also a Member of Parliament. Early in this year he received a further mark of esteem.

23rd March, 1834.

MY DEAR FRED,

We got very well through the Lancaster Assizes. Did I tell you they made me Attorney-General of the County Palatine of Lancaster? Lord Brougham wrote me a very friendly letter, and Lord Holland (the Chancellor of the Duchy of Lancaster) a very gentlemanly one. And Williams having been

made a Baron of the Exchequer, I am at the Head of the Circuit, and, fortunately, I am more so in business than in rank.

Ever most affectionately yours,
F. P.

Although his life was so full, he found time, as always, to continue his letters to his son. There is a long one containing a disquisition on religious matters, from which I extract a portion :

28th May, 1835.

. . . I will state what I consider to be essential doctrines of Christianity as I view it as a Member of the Church of England : That our Saviour is really and truly of the divine nature—very and indeed God, part of the Godhead, an object of worship, etc. That His Life, Death, and Resurrection were the appointed means of reconciliation between God and man. That the Holy Spirit is not a mere influence or effect, but a part of the Godhead also. But beyond this there is nothing revealed on these subjects.

Another, dated 13th June, tells of the critical position in the House, and also of his friendly relations with Brougham.

“Apropos of the King. I may tell you what the 1st Citizen is going to do. On Saturday I shall dine with the Duke of Gloucester, on Monday with the Lord Chancellor, and on Tuesday with Lord Tenterden, on Friday with Justice Littledale. I was happy to receive Brougham’s invitation, which was to meet some Northern Circuit Judges and Counsel, as I should have been sorry that my position as being in the House and sitting probably on the left

hand of the Chair should make any private difference in the sentiments of mutual esteem and the habit of mutual kindness which has always hitherto existed between Brougham and me—at least since we have been at the head of the Northern Circuit. They tell us now that both Houses are to sit till the Reform Bill has been gone through with, and that it is expected that by the end of August or the middle of September all will be over. *Non ego credulus illis*—it cannot I think be so—tho' there may not be any division on the 1st or even the 2nd reading."

Political matters were reaching a climax. In July, Lord Grey resigned; and on the 17th of that month Lord Melbourne became Prime Minister. He had secured the inclusion in his Cabinet of Lord Althorp, who had resigned from Lord Grey's. But, even so, the path and endurance of the Melbourne Ministry was uncertain. Lord Spencer's health was failing, and it was known that when he died Lord Althorp would desire to be released from office. It was in these circumstances that Pollock reports to his new bride* a note from a friend during the Summer Circuit. "I have taken a wager of 5 to 1 that you and Lyndhurst are Attorney-General and Chancellor before the circuit is over." The interest of this note lies in that it shows that my grandfather's position at the Bar was such that it was expected that he would be made Attorney-General, although he had not been a law officer before, and thus had not served as Solicitor-General, which is more frequently the preliminary to the higher office.

* See *post*, Chapter VI.

At this critical time the disastrous fire burnt down the Houses of Parliament.

18th October, 1834.

MY DEAR FRED,

. . . So the Lords and Commons are burnt out! Many odd things and some fine ones will be said when we meet in the strange and as yet unknown place where we are to assemble.

It is a remarkable coincidence that the very building should go almost along with the constitution. Its remote antiquity is of small account and its historical associations before Chas. the 1st are unimportant. They pulled down Queen Elizabeth's bed-chamber (the old Exchequer Chamber) when they *did* their new-fangled matters to the Courts of Westn. Hall. I valued *that* more than the House of Commons as far as anything occurred down to the end of her reign. But the House had recent associations with which nothing else could compete: Charles demanding the Members, the Speaker's answer, Oliver's Dissolution, the Convention Parliament, Walpole, Chatham, Pitt, Fox, Burke, Canning. There, the battle *for* the People had often been fought and won. At length the battle *against* the Crown was fought and at length succeeded. Perhaps it is well. In the new order of things we may as well have a new place and not be reminded of "what things were" by going to the spot where they were buried. The money loss must be at least half a million. If many such calamities were to happen, it would be worse than a war. Were I King of England, it would embitter my existence to think that such an event occurred in my time. But, after all, it is only burning the body when the spirit has fled.

We went on Tuesday to dine with the Duke and Duchess of Gloucester at Bagshot. The party was

very small—only Mr. Moore, the new Canon of Windsor, and Mrs. Moore were there as outdoor Company. Princess Augusta was staying in the house, and was exceedingly affable, pleasant, and kind.

I talked with the Duke all the evening on a sofa, the rest played at Commerce. In the morning we breakfasted and came away. The whole affair was very agreeable.

To the Same.

COURT OF K.B.

16th November, 1834.

On Friday I went at 6 to the G.P.O. and saw all the interior arrangements. The Ex-P.M.G., Duke of Richmond, was there, and the P.M.G. actual, the Marquis Conynghame, and we dined at Treeby's afterwards. It was all very gratifying, even to the hearing The Duke talk great conservatism.

On Saturday I dined at Lord Lyndhurst's party 12—Croker, Herries, Hook, young d'Israeli, etc., and of all ladies in the world to sit with his sister and eldest daughter—the Countess of Buckshire (who does not live with the Earl) on his right, and Lady Sykes, who is separated from *her* husband, on his left. It was however very gay and amusing. Part of the conversation instructive. . . .

On the 10th November, 1834, Lord Spencer died, and his death precipitated matters. The so-called dismissal of Lord Melbourne took effect on November 15th, and the Duke of Wellington, who was sent for by the King, undertook to find Sir Robert Peel, who was in Italy, and act for him until his return.

17th November, 1834.

MY DEAR FRED,

I write, because you will perhaps expect to hear from me on this occasion, but as yet I have little to tell you with certainty beyond what you see in the papers. I have myself no doubt that in reality Lord Melbourne himself occasioned this termination. He and Brougham were not on *speaking* terms, and he was aware *the thing* would not stand, and with the fate of Lord Grey before his eyes he was determined not to resign and leave Lord B. to make an administration, but left the King actually taking to town with him the Despatch which called the Duke to the King's Councils. The Duke is now Minister. The King has come to town and the *seals* are to be given up to-day at 2 o'clock. Peel is sent for, and the final arrangements will not take place till he is in England. The Seals will for a short time, *I believe*, be in commission. The Duke will, I think, have the Foreign Office, Peel the Treasury, Lyndhurst will be Chancellor, and Scarlett Chief Baron. Wetherall and Sugden then remain to be provided for. One will have the Great Seal of Ireland, the other will *perhaps* be Attny-Genl., and I have no doubt the Office of Solicitor-General will be offered to me—if not that of Attorney. Sugden has so declared, publicly and privately, that he will not take office that I do not see how he can now accept it. Wetherall will not like to be Attorney-General, and I do not think it would be a popular appointment.

Sir Robert Peel reached London on December 9th, and formed his Ministry. Lord Lyndhurst relinquished his safer post of Lord Chief Baron and became Lord Chancellor again, and Sir James Scarlett succeeded him as Lord Chief Baron.

Monday, 15th December, 1834.

MY DEAR FREDERICK,

You are entitled to the earliest intelligence of anything so materially affecting my interest and yours in connection with the present ministerial arrangements as my accession to Office must do. Till to-day, I had nothing of any sort that I could communicate, and now but little, but it is a little that goes a great way. I met Sir Robert Peel to-day, and he requested me to call upon him to-morrow at 10 o'clock; he said he was just about to send for me—I have no doubt the object of this is to offer me the Attorney-Generalship, which (if it be) I shall accept. Probably I shall be sworn in, etc., by Thursday night.

GUILFORD STREET.

Tuesday, 16th December, 1834.

MY DEAR FRED,

This morning at 10 o'clock I waited upon Sir Robert Peel, who, as soon as I was seated, told me the Government was only settled yesterday, but in anticipation of that event he had requested to see me to offer me the Attorney-Generalship, which of course I intimated my *intention* to accept. You see it rests in *intention* to preserve my privilege of franking, which, however, will expire to-morrow. The interview was very short. He sent me to the Home Office *pour expedier mon affaire*, thence I was referred to Dealtry of the Crown Office, thence to the Patent Office, then the Crown Office in Chancery, and at last I found my way to the Lord Chancellor, who was gone to Peel; but the result is that a Warrant is gone to the King for his signature and the Patent is making out for the Great Seal, and to-morrow at 10 I am likely enough to be sworn in. At the next Court at St. James' I shall kiss hands



SIR FREDERICK POLLOCK, K.C., M.P.

Attorney-General. 1834-35.

From the picture painted by Say for Sir Robert Peel now in the possession of the auth

and be Knighted, so you may look out for your place in the table of precedence as a Knight's eldest son. I consider it of more importance to be able to add that the new Government will have the sincere, zealous, and cordial support of Lord Stanley, Sir Jas. Graham, Duke of Richmond, and I have no doubt it will be able to stand for some years. We expect Bob at 3 o'clock, and I shall leave this open that his arrival may be announced. Sugden is Lord Chancellor of Ireland. Scarlett, already a Privy Counsellor, will be Chief Baron of the Exchequer, I think, on Thursday. The other Officers are pretty correctly stated in the *Albion and Standard* of last night, and the *Morning Post* of to-day. . . .

Ever affectionately Yours,

F. P.

On the 17th December my grandfather received his patent as Attorney-General in succession to Sir John Campbell. He was knighted at the Pavilion at Brighton on the 29th following.

Disraeli writes* in his memorandum of the events of the time: "Pollock was Attorney, a weak man, but the leader of his circuit"; and probably this was not an incorrect or ill-natured judgment from the point of view of a party leader. I doubt if my grandfather ever possessed the power of swaying a political audience. There is, however, abundant testimony to the cogency of his arguments and the weight of his authority in the quotations already referred to; while the letter to him from Sir Robert Peel in 1844, which follows later, contradicts any suggestion that he was ineffective in his true sphere of activity and usefulness. Sir William Follett was

* Monypenny's *Life of Disraeli*, vol. i., p. 265.

associated with him as Solicitor-General. He was then not yet thirty-six years old, had not yet taken silk, and he had no seat in Parliament, though he succeeded at Exeter in the General Election that followed.* That record of youth remains unsurpassed in modern days. Sir John Simon approached it when he was appointed Solicitor-General in 1910, just before he had reached thirty-seven years of age.

This year, too, brought to a close an old friendship, and led to Sir Frederick Pollock resigning his post as Commissary of Cambridge University.

The admission of Dissenters to degrees at Oxford and Cambridge had been a subject of importance during the Session. On the 1st August the Earl of Radnor had moved in the House of Lords the second reading of a Bill to effect that purpose which the Duke of Gloucester had opposed as Chancellor of Cambridge on the ground that Dissenters were permitted to enjoy the advantages of education at his University, although they were not able to take their degrees. The Duke of Wellington also opposed the Bill. Lord Melbourne approved the reading of the measure a second time; but the motion was defeated by a majority of 102.

On the 14th November the Duke of Gloucester writes on the particular difficulty which beset a Dissenter who wished to be called to the Bar and not to lose the advantages which holding a degree afforded him.

* *Life of Campbell*, vol. ii., p. 59, says that he was selected because Peel, from attending some committees before whom he had pleaded, had become acquainted with his extraordinary merit.

BAGSHOT PARK.

14th November, 1834.

MY DEAR POLLOCK,

I have many thanks to return to you for your two very obliging Letters and for the Document that accompanied your second, and I am sure that our University will highly appreciate, as the Chancellor does, your great exertions on this occasion. We must all sensibly feel how much trouble you are taking to promote a measure of such essential interest to our Body and for which, if effected, we shall be so greatly indebted to you.

After reading over with attention the Paper you have been so good as to send me, I cannot help retaining my opinion that the mode I originally suggested would be the clearest and the most in-offensive; but there may be some reason with which I am unacquainted or some Regulation of the Benchers that will prevent its being adopted. I am certainly both against giving the privilege to everyone and not allowing the Privilege to anyone. My plan is that as an Undergraduate is not called upon in the University of Cambridge to subscribe the 39 Ar. and is only required to do so on taking his Degree, and therefore Dissenters may have all the advantages of a University education, may obtain Prizes, and go thro' the Examinations in the Senate House, as if they were going to take their Degree and *thus* may become Wranglers, etc., etc.

That the four Inns should declare that any Person, having resided in our University the number of terms required to entitle him to his Degree and having gone thro' all the different Examinations and performed the usual Exercises, should, upon presenting a Certificate of good conduct from his College, be considered in the same light as if he had taken his Degree and be entitled

to the same advantages. This takes nothing from the University whilst it gives the Dissenters everything they can ask and removes entirely the grievance of which they complain, and at the same time it gives security to the Bar against uneducated or improper Persons being called up, and appears to me to afford that Protection which was so justly looked for when the present Regulations were made.

I am much gratified by the notice you have given for next Tuesday, and as it is so long since I stated to you my ideas upon the subject, I have given you the trouble of reading them over in the hope that you may give them consideration between this and Tuesday next. I flatter myself we are now in progress towards the accomplishment of an object that I have long had at heart, as I consider the carrying the measure now under discussion and the allowing the Royal College of Physicians to grant Degrees of Medicine will set at rest a most unpleasant question for our University and thus render that distinguished Body a most important service.

I have been exceedingly unwell since I had the pleasure of seeing you, and I have been ordered by Sir Henry Halford, who came here the beginning of the week, to proceed to Cheltenham, where I shall go on the 22nd. . . .

With the highest esteem and sincerest regards,
my dear Pollock,

Most truly yours,

WILLIAM FREDERICK.

Then follow three letters from his equerry,
Colonel Higgins :

BAGSHOT PARK.

19th November, 1834.

MY DEAR POLLOCK,

I regret very much having to acquaint you with The Duke of Gloucester being much indis-

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posed. Since Saturday last His Royal Highness has been confined to his bed, was yesterday so ill that Sir H. Halford was sent for. He arrived in the evening, and found The Duke suffering from bilious fever. He went away this morning, stating that it will be many days before His Royal Highness becomes convalescent. Sir Henry is to come again to this Place in two or three days. The accompanying letter being for a poor soldier, will you with your wonted goodness give it a Passport? My best compliments to Mrs. Pollock.

Always with sincere regard,

Very faithfully yours,

S. G. HIGGINS.

BAGSHOT PARK.

20th November, 1834.

MY DEAR POLLOCK,

My letter of yesterday, which reached you this morning, will have made you acquainted with the Duke of Gloucester's indisposition; this moment have I come from His Royal Highness' room, where He is, I lament having to tell you, in a state of as much languor and debility as could well be imagined or believed, yet his Medical Attendant assures us there is not any cause for alarm, that The Duke's weakness he can perfectly account for. We expect Sir Henry Halford to-morrow. His Royal Highness not without great exertion and difficulty, commanded me to offer to you his best thanks for the letter he had the pleasure of receiving from you, and to assure you, were he able, he would himself write to you, but he is quite of opinion it will be some time before he will be enabled to write, to make any exertion, or to attend to business of any sort.

I am always, My Dear Pollock, with great regard,

Very faithfully yours,

S. G. HIGGINS.

The Duke, a benevolent, good man, died on the 30th November, and one more letter came from Bagshot Park :

BAGSHOT PARK.

7th December, 1834.

MY DEAR POLLOCK,

Upon the occasion of the very distressing, lamentable, and deplorable event, which occurred so very lately at this Place, I considered that one letter would be sufficient to communicate to you the intelligence of the affecting and irreparable loss we have *all* sustained. To me the blow is such as I am afraid to contemplate. For five-and-thirty years, I have had the honor of living in the Duke of Gloucester's family, and in that length of time, but very little separated from him, I knew his great worth and excellence, his consistent and steady friendships, his uniform kindness, as well as his Public and private virtues. He was a Pious, religious, charitable, and honourable man as ever lived, and in the number of his friends there were few for whom His Royal Highness had a greater regard than for you. It would appear as if his virtues and inestimable qualities were too good for this life and that his spirit has been called to a better world. I have not failed communicating to the Duchess of Gloucester, and to The Princess Sophia Matilda, all your anxious enquiries during The Duke's lamented illness for Her Royal Highness, and your solicitude at this moment for Their Royal Highnesses, as well as the assurance of your condolence and sympathy which you demand me so strongly to express, and I obey very willingly, the commands with which I have been honoured, to express to you Their Royal Highnesses best and warmest thanks, as well as their acknowledgements of your recollection, kindness, and attention, which

they will hereafter be glad of an opportunity of repeating it. Person. In justice to you I handed to The Duchess your letter to her.

Ever, my Dear Pollock, with great regard,
 Very faithfully yours,
 S. G. HIGGINS.

The Duke had been consistently a warm friend to my grandfather. His intellectual powers were not great, yet he had served his generation.* He and his wife—the daughter of George III.—had devoted themselves to philanthropic schemes and charitable undertakings, and it is clear from the letter above that he took a sincere and active interest in Cambridge University. His place as Chancellor was filled by the Marquis Camden. My grandfather decided to relinquish his position as Commissary, out of respect to his former patron and friend, and received the following letter :

WILDERNESS PARK.

19th November, 1835.

MY DEAR SIR,

I have received your letter of the 18th inst. in which you have alluded to a conversation which took place between us soon after the Decease of his Royal Highness the Duke of Gloucester.

I should have considered much Honor done to the Office, and much advantage afforded to me, if you had continued the possession of the Office of Chancellor's Commissary, and I had great pleasure in seeing you by my side upon the occasion of the late commencement; but as you appear desirous of shewing a mark of Respect to the late Chancellor, and as I feel a desire to comply with his wishes,

* See *D. N. B.*, vol. lxi., p. 349.

expressed in his latest moments, I accept the resignation of the Office, but I must be permitted at the same time to say I lament that a sense of dutiful Respect on both sides to his late Royal Highness' wishes produces the separation between us in this academical connexion.

I have the Honor to remain,

My dear Sir,

Yours most sincerely,

CAMDEN.

By becoming Attorney-General, Sir Frederick Pollock lost his position as leader of the Northern Circuit. Custom dictated that once a barrister had become a law officer (although at that time he could still be engaged in private practice) he must no longer practise upon it, except at a special fee, and that whether he continued in office or not.

The Ministry of Sir Robert, as everyone knows, did not survive much more than 100 days, for the Parliament which met in February, 1835, after the General Election, was hostile to it. The Liberals numbered 380 and the Conservatives 273, so that Peel had a majority of 107 against him. After several other adverse Divisions, Lord John Russell's motion, involving the appropriation of the surplus revenues of the Irish Church to general moral and religious purposes, was carried against the Government by 27 votes, and on the 8th April, Peel resigned.

This short official experience gave little or no scope to the Attorney-General to show his mettle in the House of Commons; indeed, he was called upon to speak on not more than a dozen occasions,

and then only on legal questions, such as bribery at elections, the execution of wills, which was then discussed and culminated in the Wills Act of 1837 (1 Vict., Cap. 26), the Leicester Election, and the like. He took no part in the Gaming Act passed in that Session. On the 12th March, however, he dealt with a subject which time has not rendered unfamiliar. As Attorney-General he moved for leave to bring in a Bill to improve the maintenance of the discipline of the Church of England! So far, no further!

Even if the days of Peel's Government were few they involved no loss of distinction.

Sir Robert during his short tenure of office made a great advance in his political reputation and influence. The Annual Register speaks in glowing terms of the sunset of his Ministry :

“In so far as his (Sir Robert's) own reputation was concerned, it had been altogether triumphant. Few men had made in so short a space such rapid progress to the highest place in the esteem and estimation of his countrymen.”

Some of that glory was reflected upon his colleagues; and with enhanced eminence they were able to wait the passing fortunes of Lord Melbourne's Ministry until, upon his fall in 1841, they were placed in power securely. Sir Robert Peel once more became Prime Minister and my grandfather again became Attorney-General, with Sir William Follett as Solicitor-General.

CHAPTER V

PARLIAMENT AND PROMOTION TO THE BENCH

IN the last chapter I have in part anticipated events of which some further details may not be uninteresting. The great question of reform and the successive elections occasioned by it provided an arena in which many actors played their part.

I turn back, therefore, to recall how my grandfather became a Member of Parliament, and the part that it fell to him to play, with his occasional observations in the course of it, until he reached the Bench.

His election to Parliament had been easy, and he held a safe seat which gave him no electioneering trouble.

The Borough of Huntingdon was a small constituency with 200 freemen, and had returned two members to Parliament ever since the first recognised Parliament of 1295. Oliver Cromwell was returned for it in 1628. It was under the suzerainty of the Earl of Sandwich, who lived hard by at Hinchinbrooke.

Jonathan Frederick Pollock, to give him his full names which he continued to use at that date, was a candidate for the borough at the General Election held in May, 1831, after the abandonment of the First Reform Bill. It will be remembered that

that election was occasioned by the success of General Gascoyne's motion or instruction, "that the number of representatives for England and Wales ought not to be diminished," which was carried on the 19th April by 299 votes to 291. The purpose of this motion was to render the scheme proposed by Lord John Russell impracticable. He had intended that after the disfranchisement of some boroughs and the enfranchisement of some large towns, the total number of Members in the House should be 627 instead of 596. But if the terms of General Gascoyne's instruction were adhered to, and additions as proposed in the Bill were made to the number of Members from Scotland and Ireland, the number in the completed House must be raised to what was considered an unwieldy number. The motion was dealt with as being a direct challenge to the principle of the Bill, and so, upon its being carried, the Government decided to appeal to the country. King William had reluctantly consented to prorogue and dissolve Parliament. The prorogation took place with an unexampled haste, and excited a warmth of feeling, to use no stronger expression, which had seldom been aroused. Gascoyne's motion was carried on the 19th April. Parliament was prorogued in the afternoon of the 22nd April, after a decision to that end had been taken in the morning, so as to prevent a motion in the Lords for an address to the Crown against a dissolution, that was to be moved by Lord Wharncliffe, being discussed or ~~carried~~ carried, and the dissolution followed next day. There was a speedy resort to the hust-

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ings, and my grandfather was adopted as one of the two Tory candidates for Huntingdon.

His colleague, curiously enough, bore the same Christian name—Colonel Jonathan Peel, the brother of the Prime Minister, Sir Robert Peel—who was afterwards Major-General Peel, and ultimately became Secretary for War in Lord Derby's Ministries in 1858 and 1866. He was a great supporter of horse-racing, and credited with a thorough knowledge of all matters connected with the Turf—a true sportsman. The contest was not a severe or prolonged one, for after 74 votes had been polled in favour of the Tory candidates, the two Whig candidates withdrew, and on the 2nd May, 1831, Pollock and Peel were returned as members.

The new Parliament, in which the Members in favour of Reform were in a great majority, met in June. A new Reform Bill was introduced, and in September, after long discussion and obstruction, was passed in the Commons by a majority of 109 on its third reading. On October 8th it was rejected in the Lords.

My grandfather had broken the ice and made an independent speech. He writes to his son :

Tuesday, 18th October, 1831.

MY DEAR FRED,

On Friday I spoke in the House, and gave great satisfaction to Brougham and all his friends. I am glad I am no longer a silent Member. I should have been mortified if November had come and found me undelivered of my maiden speech. It was, however, a very trifling effort delivered

with a very hoarse voice. Still, some people have been very civil about it.

We shall be sent to the right about on Friday and not meet again till after Xmas.

Yours affectionately,
F. P.

In December of the same year Parliament met again, and the third Reform Bill was brought in, and in March, 1832, passed the Commons. On the 14th April the second reading of the Bill in the House of Lords was carried by a majority of 9.

Then on the 7th May a motion in Committee adverse to the Bill was carried in the Lords by 35 votes, and the Ministry resigned.

The Duke of Wellington was sent for by the King, but he failed to make a Ministry, and Lord Grey's Cabinet was recalled to office. The King intimated his intention of creating peers to pass the Bill if it became necessary to do so.

COURT OF K.B.
22nd May, 1832.

MY DEAR FRED,

. . . Public affairs are as bad as they can be. The Commons have in effect voted the King a Cypher, and the House of Lords an obstruction to the Public good. Whether the Duke and Peel could have done anything I am by no means sure, but certainly in consequence of Peel's declining Office the last chance has been thrown away, and nothing has been tried where much might have been done. Peel's excuse is that, as a public man, he could not play over again the game of the Catholic question. A better excuse (if it be true and sincere) would be that half the Bill would be as bad

as the whole, as both would be fatal. I would not give a pin to choose whether I should take 10 grains of arsenic or 5 only—when one or two would be a deadly dose. If Peel thinks he cannot control affairs so as to leave enough of the constitution to be worth preserving he may be right in saying, “*They have done the mischief, let them take the responsibility and meet the consequences.*” “*They have sown the wind, let them reap the whirlwind.*” Here we have the Scotch Reform—the Irish Reform!—the Irish Tythes!!! and plenty of other matters which Peel, I presume, intends they shall have the sweets of. I have this morning been to Gloucester House, and though I have in consequence somewhat roused from my political apathy, I assure you I take a very different interest in public affairs from what I did. I may be in another Parliament, but I think scarcely a third. I consider the constitution is at an end. The Revolution has begun and practically we are a Republic. The Political Clubs rule the House of Commons, and the Commons care not a boddle for the known opinion of the King or a recorded decision of a majority of the Peers.

Yours affectionately,
FRED POLLOCK.

On 4th June the Bill was finally passed by the Lords and received the Royal Assent on 7th June, 1832.

INNER TEMPLE LIBRARY.
5th June, 1832.

MY DEAR FRED,

The Reform Bill was read a third time in the Lords last night, and will soon receive the Royal assent. If you ask me what I think of it now, I hardly know what answer to give. I hope I have

not so little sense and temper as to wish all the melancholy forebodings and anticipations of our friends to be realised. I do not want to see the King dethroned, the Church despoiled, the Bishops driven from their seats among the Peers, the Peers themselves shorn of their honours, Lord Grey's coronet in the dust, etc., because I think the King dissolved the Parliament with hasty temper and bad judgement, and some of the Spiritual Peers forgot their allegiance to the Church and the Throne, and the House of Lords itself has acted with most unconstitutional weakness and inconsistency, and Lord Grey, with his strange combination of Pride and Cowardice, has brought on us some of the evils he most feared and some of the disgraces he was himself most alive to. No, I rather (now that the affair is over) am disposed to make the best of it, and to hope that the next Parliament may be composed of men more intelligent, more wealthy, more *conservative* than the present, but I find I cannot write more, and must go to the Law Commission. I cannot, however, avoid sending you the 1st Epigram of Evenus.*

“Πολλάκις ανθρώπων ὀργή νόον ἐξεκαλύψε κρυπτόμενον
μανίας πούλῳ χερειώτερον.”

and Lord Grey's *οργή* has maddened him, and I fear ruined us.

Spero meliora,
Yours affectionately,
F. P.

There were two further Acts for Scotland and Ireland which followed, and were passed without

* Evenus flourished *circa* 450 B.C. “The passion of men has many times revealed a hidden intention that is worse than madness.”

difficulty, and there was also an ancillary Act to be passed for delimiting the boundaries of the newly enfranchised boroughs which were to return one or two Members, and the determination of these necessitated delay. The General Election, therefore, was not held until December of that year.

The Reform Act had, by extending the right of voting in boroughs to occupiers of houses of the annual value of £10, nearly doubled the votes in Huntingdon. Their number had risen to 384. There was a serious contest between the two sitting Members and the Whig candidates, who were Captain James Duberly and E. H. Maltby. I have a sheet of the address issued by the latter :

“ Gentlemen, an invitation has been sent to me to come forward as a Candidate, for the Honor of representing your Boroughs in Parliament, upon the ground of assisting in your Emancipation from unconstitutional Influence in the exercise of the Elective Franchise.

“ I have thought it my duty to answer to the call, and will promote to the utmost of my power so praiseworthy, and spirited, and patriotic an object.

“ The evils resulting from the corrupt state of one Borough are, remotely perhaps, but surely, felt through the whole system. On the contrary, a vindication of the purity of the Elective rights gives health and life to public virtue and confidence and power to the efforts of honest men. The Reform Bill has enabled you freely to choose your Representatives; and it is my firm belief that the benefits intended to result from that Act of Parliament will be eagerly seized upon by you at the ensuing Election. . . .”

In the result, however, and by contrast with "the efforts of honest men," Pollock and Peel retained the seat.

Tuesday night.

MY DEAR FRED,
The numbers are :

Peel	177
Pollock	171
Duberly	128
Maltby	94

and Peel and I are declared duly elected. The dinner will be at 4, the charring at 11 a.m.

Yours affectionately,
F. P.

I expect Steel and you, and you may come early or late as you please, but come to dinner.

F. P.

At the General Election held in January, 1835, after Sir Robert Peel had undertaken to hold Office as Prime Minister and my grandfather had become Attorney-General and been knighted, there was no contest.

The next letter gives an opinion of the changes in 1836. The Great Seal had been put into commission when Lord Melbourne became Prime Minister in April, 1835, at the end of Peel's short term of Office, and in January, 1836, was entrusted to Pepys, who was created Lord Cottenham. Sir John Campbell, the Attorney-General, was passed over, but was conciliated by accepting a peerage for his wife, who became Baroness Stratheden.

14th January, 1836.

MY DEAR FRED,

I was wrong. Pepys is to be Chancellor with a Peerage, Bickersteth Master of the Rolls with a Peerage. The Attorney-General is passed over, but his Wife is to be a Peeress. The cause of this is, that, if any change had taken place, Penrhyn, for which Rolfe, Solicitor-General, sits, and Newark, for which Wilde sits, would not have been secure; the former would certainly have been lost, and so, because the Government have two seats in danger in the House of Commons, they make three Peerages (blessed Reform Bill!), and Campbell has bartered away the rights of his Office and the honour and Interests of the Profession of which he is at the Head, for a Peerage for his Wife. As I told him to-day myself when he asked my opinion, I thought it made no difference, whether Peerage, Pension, Money, or a splendid present, it was a bargain to submit to *degradation*, and the only way in which it could have been done with dignity (assuming the exigency of the Government required the sacrifice) was to do it nobly by doing it for nothing.

Yours affectionately,
FRED POLLOCK.

In July, 1837, when the election took place upon the accession of Queen Victoria, the Members for Huntingdon were not called upon to fight for their seat. This inconvenient system which necessitated the dissolution of Parliament upon the demise of the Crown was abolished by the Reform Act of 1867.*

* 30 & 31 Vict., Cap. 102, Sect. 41.

Four more years passed, and then came the General Election in July, 1841, which gave the Conservatives a majority of 81, and Sir Robert Peel returned to office and power as Prime Minister.

GUILFORD STREET.

31st August, 1841.

3 o'clock p.m.

MY DEAR FREDERICK,

Last night about twelve o'clock I was knocked up (having been in bed about an hour) by a letter from Peel desiring me to call about half-past one this day. I am just returned, and I learn from him that he was summoned yesterday to Windsor, that to-day he is making an Administration, that to-morrow he will present the list to the Queen, that until she has approved of it it would be wrong to blazon anything about the arrangements, and, therefore, under cover of the profound secrecy which usually veils a paragraph in the newspaper, I may venture to breathe to you (in domestic confidence) that I expect to find myself Attorney-General before the week is out. . . .

Yours affectionately,

F. P.

Peel and Pollock had had a walkover in July and the same good fortune later in the year when they had to stand for re-election on their appointments to offices under the Crown, for Peel was appointed Surveyor-General of Ordnance and my grandfather returned to his post as Attorney-General.

This record is of a truly smooth and easy political path; but no doubt all due and proper precautions

were taken to maintain the security of the seat. One of these, as I remember my father telling me, was that, on the announcement of a General Election, it was the duty of someone—and it fell to him on one occasion—to post down to Huntingdon to secure all the public-houses in the Tory interest, whence flowed unlimited beer! It has often occurred to me to contrast what was the duty of a candidate, and more especially of a law officer, towards his constituency before and since the passing of Sir Henry James' Act in 1884. What a boon the limitation of expenses, display, and treating has conferred upon all candidates thereafter!

Lord Campbell in his *Life* tells of the Borough of Stafford for which he stood in 1825:*

“This is one of the boroughs in which, by immemorial usage, voting money is established—*i.e.*, a certain fixed sum for each vote on whichever side—here £7 a single vote, £14 a plumper, to be paid about a twelvemonth after the election. In Stafford there are near 700 voters, so that the voting money must be calculated between £3,000 and £4,000, the expenses during the election being not much less.”

He gives the figures of the expenses incurred in the election of 1830.† £8,000 spent by the successful candidate at Shrewsbury and £20,000 spent by a barrister on the Oxford Circuit in being returned for Gloucester! In the election of 1837 it was

* *Life of Lord Campbell*, 1881, vol. i., p. 428;

† *Ibid.*, pp. 475, 476.

admitted by the Liberals that they spent above £13,000 on the election at Norwich; and it was estimated that Robert Scarlett, Lord Abinger's son, who was returned on the Tory side, spent even more than this!*

My grandfather's life in Parliament was not marked by any particular task or incident, although he was a constant and interested attendant. There are many evidences of this in his letters. In one of them he gives proof of this, and he tells his son how that before he was a Member of Parliament he heard Brougham's epigram, "The Schoolmaster is abroad."

"In the debate on the Address in 1828, when the Battle of Navarino was called an *untoward affair*, Mr. Brougham spoke about the Gallant First Lord of the Treasury, The Field-Marshal Premier, etc., etc., but said he feared him not nor all his bayonets, for though it was a common saying, 'The soldier is abroad,' he could tell the House there was a person of more influence and effect—who was gone out—'The Schoolmaster is abroad.' I heard it myself, and though it has now past into a *saying*, nothing was ever heard so flat, or fell so dead from a Speaker's mouth."

To me, both as a law officer and as a judge, it has often appeared most remarkable that although the Income Tax Act of 1842,† which until 1918 was the foundation by which that increasingly burdensome duty was charged upon us, was passed in its

* *Life of Lord Campbell*, 1881, vol. ii., pp. 103-104.

† 5 & 6 Vict., Cap. 35.

cumbersome form, embracing Schedules, "cases," and "rules" to explain or complicate its sections, the Attorney-General of the day was never called upon in the House of Commons to make a speech upon it, or to answer any questions in relation to it.

The task of passing it fell upon the Prime Minister, Sir Robert Peel. Far otherwise would have been the duty of the law officers of to-day! No Finance Act is passed—and there is one in every financial year, as well as a Revenue Act after varying intervals of years—without one of the law officers standing by, and being called upon, if not at the desire of the Minister, at any rate at the instance of the House, to take some part in the obscurities which these Bills involve. Almost necessarily, it may be added, because of the complexities of human life which they embrace and cover.

There is, however, one Statute which goes by the name of "Pollock's Act."* It is an Act of 1842, which repealed the provisions in local and personal Acts giving double and treble costs and the right to plead "the general issue" in such Acts, the effect of this latter provision being to require the special matter on which the defence is rested to be actually pleaded. It also provided a uniform measure of notice of one month before action was brought where it is necessary to give such a notice, and a general limitation of two years under such Acts as the time within which such action should be brought. It was a measure of useful law reform, which abolished the effect of a number of heterogeneous

* 5 & 6 Vict., Cap. 97.

provisions scattered up and down Acts which deal with local affairs and matters personal to the purpose of the Acts in which they were to be found.

Sir Frederick continued in the heavy work of Attorney-General and an additional large private practice for two and a half years when, early in 1844, an opportunity was afforded for a change in his career. It had been so far laborious and steady. His own political party had not held power during the ten years that had been dominated by the question of reform and its consequences. It is true that the tenure of office by Sir Robert Peel for the few months in 1834-1835 had placed him at the head of the English Bar. Yet when that term ended he was cast adrift on his own resources, a faithful supporter of Peel, without any of the qualifications for political intrigue; and the omens were by no means favourable to a speedy return to office.

Lord Abinger, who had been appointed Lord Chief Baron of the Exchequer when the post was vacated by Lyndhurst becoming Lord Chancellor in Sir Robert Peel's short administration in 1834, was seized with a fit of apoplexy after his work in court on the Assizes at Bury St. Edmunds* and died there on the 7th April, and was buried at Abinger on the 14th. The vacancy thus created was at once canvassed by the Quidnuncs, and in some quarters Baron Parke was suggested as entitled to the succession. He was a year older than my grandfather, and was also a distinguished son of Trinity College, Cambridge, where he had been placed Fifth Wrangler and had been the Senior Chancellor's

Medallist. After being junior counsel against Queen Caroline, he was, while still a junior, appointed a Judge of the King's Bench in 1828, and in 1833 he was placed on the Judicial Committee of the Privy Council. Then in 1834 he was transferred to the Exchequer, so that at this time he had had already sixteen years' experience on the Bench. He had, however, never undertaken the burden of a seat in Parliament, nor undergone the discipline which that later University—as it has been aptly called—enforces. Along the cool sequestered vale of law he had kept the noiseless tenor of his way and thus retained his* “reverence for the dark technicalities of pleading,” which might have been disturbed if he had been compelled to match his views against those of men who differed from him, and find his level upon broader humanities.

Sir Frederick Pollock was Attorney-General, and as such had begun the prosecution of Barber, Fletcher, and Mrs. Dorey for what were known at the time as the “Will Forgeries” on the 11th April.

On Saturday, the 13th April, *The Times* began its leading article :

“If there ever was a judicial appointment which might have been expected to pass as of course, and against which not a voice even of the most furious partisan could have been raised, we should have pronounced it a fortnight ago to be that of Sir Frederick Pollock to the vacant Chief Barony of the Exchequer. . . .

“In legal knowledge, in temper, discretion, and integrity Sir Frederick Pollock is eminently—nay,

compared with many law officers of the Crown, perhaps unusually—fitted for the office of Judge."

The occasion of this tribute was the action of a Whig contemporary, "with a creditable purpose of making mischief," advancing the claims of Baron Parke. *The Times* held that the Attorney-General was entitled to the reversion of one of the great legal offices that fell vacant in his time of service. So the great journal supported Sir Frederick Pollock. "The Attorney-General has performed his engagements to the public—it now rests with the public to perform theirs to him."

On Monday, the 15th April, *The Times* spoke of the appointment as a *fait accompli*:

"The long laborious and successful career of Sir Frederick Pollock at the Bar, his affable demeanour, his popularity with the profession and, above all, the judicial character of his mind, have for some time past confirmed those claims to high promotion which the usual routine of succession might justify any Attorney-General in preferring. This is what is called intelligent anticipation."

It is interesting to turn to what was happening in responsible quarters at this same time.

In a letter* to his wife, written on 12th April, Sir Robert Peel complains that he was tied to his writing-desk since 9 o'clock with occasional visits from three Ministers. We thus get a peep into the work of a Prime Minister at that date. Certain it is that

* See *Private Letters of Sir Robert Peel*, by George Peel, 1920.

nowadays he would not complain if he was compelled to devote himself to such a quiet duty. Secretaries must now undertake the letter writing, except very short personal notes, and an unbroken morning during the session is a thing of the past. One of the letters that he wrote under this complaint was the following :

Private. Immediate. The Attorney-General.

Confidential.

WHITEHALL.

12th April, 1844.

MY DEAR ATTORNEY-GENERAL,

I arrived in Town last night for the purpose of conferring with the Lord Chancellor on the arrangements rendered necessary by the death of Lord Abinger.

We had not a moment's hesitation in resolving that no claims for the succession to the Office of Lord Chief Baron could be put in competition with yours.

I have this day written to the Queen soliciting that permission from Her Majesty, which I am convinced she will readily accord, to propose this appointment to you. I presume that it will be acceptable to you.

I cannot say that I shall place the appointment in your hands with unqualified satisfaction, for however I may rejoice in the just reward of professional Eminence, I cannot contemplate without deep regret the loss of those services, which, in the capacity of Attorney-General, you have rendered to the Crown with a combination of judgment, Fidelity, ability, and personal devotion to the public service, which has rarely been equalled.

I cherish, however, the confident Hope that the

feelings of reciprocal Friendship and esteem will long survive the termination, if they are to be terminated, of our official Relations.

Believe me,

My dear Attorney-General,

Most faithfully yours,

ROBERT PEEL.

Pray do not mention the purport of this Communication until I shall have received a Reply from the Queen.

The reply and assent to this proposal were no doubt not less immediate.

The case of “Fletcher and Dorey” proceeded at the Old Bailey, and on Saturday, the 13th, the Attorney-General concluded his reply. His last sentence was :

“Let your conclusion, gentlemen, be the conclusion of your own minds; when you have formed your conscientious, your honest, independent judgment for yourselves as men of business, understanding the transactions of life, then let your verdict be given, whether it be for the Crown or for the prisoners, whether of guilty or not guilty. Let your verdict be the act of firm, impartial, and just men, faithfully discharging an important duty.”

After making this final speech—his last at the Bar—he went back to the robing-room, where—as Baron Huddleston, who was then a young man attending the Old Bailey Sessions, has told me—he rolled his silk gown round his arm and threw it into the corner of the room saying : “Now I am Chief Baron.”

No doubt the relief from uncertainty¹ was great. After several vicissitudes at the Bar, and in politics, he had reached an eminent post, worthy of his services, and satisfying to his ambition. Time was running on, too, for he was more than sixty years of age, and at the Bar that is a time when it is not easy for an older man to retain his position—certainly in jury cases—against younger and more ardent spirits. The higher tribunals—the House of Lords and Privy Council—offer good work to a man of ability and experience, and the writing of opinions was still open to such a man. This latter class of work bulked larger in those days than it does now. The law was less settled by cases and codes and Statutes; and many questions that could now be decided by the junior member of a good mercantile firm of solicitors were then sent to the Temple for advice. Still, after the span of sixty years has been passed, judicial work looms more attractive in spite of the loss of income involved.

It may not be amiss to add a few words as to the prosecution in these will forgeries, which excited much attention at the time—indeed, the report of the Saturday's proceedings occupies eleven columns of *The Times*. On Monday, the 15th, the case continued. "Erle, K.C., appeared in the place of Sir Frederick Pollock, now Lord Chief Baron of the Court of Exchequer."* Baron Gurney summed up. Fletcher and Mrs. Dorey were found guilty, Barber not guilty. Other charges were then preferred; and on Friday, the 19th, Williams J. summed up and the verdict was given. Barber and Fletcher were found

* *Annual Register Chronicle*, p. 5.

guilty and Mrs. Dorey pleaded guilty. On Monday, the 22nd, Barber and Fletcher were sentenced to be transported for life and Mrs. Dorey to be imprisoned for two years.

On the 15th April Sir Frederick was admitted to the “estate and degree” of a Serjeant-at-Law,* preparatory to taking his seat as a Judge; and next day he took the usual oaths and his seat as Lord Chief Baron†—a post which he was destined to hold for rather more than the long term of twenty-two years.

My grandfather was fortunate in leaving politics when he did. He was spared the dissensions and the divisions in the Conservative party that followed at the close of the next year, when in December, 1845, Peel undertook the abolition of the Corn Laws. As a warm friend and admirer of Peel, he would doubtless have adhered to him.

In the months that immediately followed upon his taking his seat on the Bench, he was occupied extra-judicially, giving his help to his great friend and colleague in the representation of Huntingdon, General Peel, in a lawsuit in which the latter had become an unwilling defendant.

In the race for the Derby that year, “Running Rein,” owned by Mr. Wood, came in first, but was disqualified as being a four-year-old, so the stakes were awarded by the Stewards to General Peel,

* He chose for the motto on his Serjeant's rings “Jussa capessere fas, est.”—Vergil, *Æneid*, I., 77.

† His colleagues, in addition to Baron Parke, were Barons Alderson and Gurney and Baron Rolfe, who afterwards became Lord Chancellor, and took the title of Lord Cranworth.

whose horses "Orlando" and "Ionian" were second and third; and after the disqualification of "Running Rein," Peel won both first and second place.

The Stewards declined to pay over the stakes to Mr. Wood, and an action was brought by him against the Stewards, of whom General Peel was named first. "Wood *v.* Peel" was tried before Baron Alderson on the 1st July, and how the action came to be brought to trial so swiftly I cannot explain. The evidence required for the defendant had to be gathered together in a very short space of time, and my grandfather gave great assistance to his friend in the preparation of the case. The identity of the so-called "Running Rein" was questioned, and it was said for the defendant that Mr. Wood had been imposed upon and that the colt that was successful at Epsom was a colt by "Gladiator" that had been originally named "Maccabæus."

At an early stage of the case Baron Alderson suggested that he and the jury should be given an opportunity of seeing the horse, whose identity could be determined by marks on its legs, and counsel for the plaintiff agreed to this course. Next day it was explained that the horse had been taken away from Mr. Wood's keeping and could not be produced. Evidence was called for the defendant to prove the identity of the horse that ran with the Gladiator colt, and, upon a further intervention by the Judge as to the necessity of the horse being produced for inspection, Mr. Wood allowed his counsel to state that he was convinced that he had

been deceived. He gave up the case, and a verdict was entered for General Peel.

The decision of the Stewards was thus justified and “Orlando” held his Blue Ribbon. He lived on till 1868, and now what remains of him can still be seen by the passer-by in Lincoln’s Inn Fields. His skeleton was given to the College of Surgeons. It stands in a prominent place in their large hall among others which cannot claim such an interesting history.

CHAPTER VI

FAMILY LIFE

FROM the letters that I have made use of, it is plain that my grandfather was a warm-hearted and affectionate man capable of sincere and faithful friendship. As a young man he made friendships at Trinity which remained constant and unbroken. His correspondence with Thomas Wilde, afterwards Lord Chancellor, who had been a school-fellow with him at St. Paul's, with Monk, the Bishop of Gloucester, and Blomfield, the Bishop of London, continued throughout their lives. Between the latter and my grandfather the friendship had a foundation in the difference of their attainments, Blomfield's superiority in classics* and Pollock's in mathematics making it a convenient arrangement that each in turn should assist the other, and they spent a Long Vacation while at Cambridge together on this basis.

When at the Bar Pollock was a guest at dinner with Erskine and constantly with Brougham and Lyndhurst, and he maintained his friendship with Musgrave, who was made a fellow of Trinity in 1812, and later was Bishop of Hereford, and ultimately Archbishop of York from 1847 to 1860.

My grandfather married on the 13th May, 1813, a daughter of Francis Rivers, who lived in Spring

* See *Life of Bishop Blomfield*, 1863, vol. ii., p. 8.

Gardens, near by his family home, and went to live in Bernard Street, Russell Square, and thence, as his circumstances improved, he moved to 26, Bedford Row, where the later children of this marriage were born. Their family comprised six sons and five daughters, all of whom grew up to manhood or womanhood.* His second son, Robert, who was an officer in the Madras Cavalry, died before him in 1853, but most of the others filled the allotted span of life. Two of them reached an advanced age. Mary died in 1912 at the age of ninety-three, while my father, George, was within ten days of ninety-four when he died in 1915.

Mrs. Pollock died on the 27th January, 1827, just after the birth of the youngest son, Richard, and was buried at St. Martin's-in-the-Fields. Her husband mourned her loss acutely, and found himself, at a time of great pressure of business as a leader on the Northern Circuit and a Member of Parliament, confronted with the problems at home which must always give great concern to an affectionate father, such as he was. His sister-in-law, Mary Rivers, came to his help and kept home for him. The boys, as the custom of those days enjoined, were sent to boarding schools at tender ages which would shock modern ideas. My father, George, was sent to school at Bruce Castle, Tottenham, under Rowland Hill of the Penny Post fame, very soon after his mother's death, when he was just six years old. I have as an Appendix set out a con-

* 1, Frederick; 2, Robert; 3, George; 4, Charles; 5, Henry; 6, Richard. 1, Fanny; 2, Louisa; 3, Mary; 4, Emma; 5, Grace.

cise family tree, but it would be outside the scope of these notes to dwell on details of the family.

In 1830 he changed his London residence to a large square house with a portico, which stands at the north end of Queen's Square with a garden in front of it, parallel with Guilford Street, and it was his home for more than thirty years.

My grandfather married a second time on the 7th January, 1834, Sarah Anne Amowah, the second daughter of Captain Richard Langslow, who lived at Hatton, near where my grandfather had a cottage to which his children were sent for change of air from Bloomsbury.

By this marriage he had two sons and eight daughters, who grew up; and, in fact, a total family of twenty survived him. There were three children of the second marriage who died in infancy; thus the total number of children born to him was twenty-four. His devotion to and interest in his children is attested by a letter he wrote to my mother, a fortnight after her marriage to my father, at Rathdowney, in the Queen's County, Ireland, deploring the loss of a baby child, and giving vent to a depth of affection and regret which in these days of small families seems difficult to understand. When he wrote it he was in his sixty-ninth year.

GUILFORD ST.

Saturday, 3rd January, 1852.

6 o'clock a.m.

MY DEAR FANNY,

While you and George were writing to me letters full of the joy and happiness I trust you will long possess, we were watching with anxiety the declining health of our dear baby and finally



Sir Frederick Pollock's house.

QUEEN SQUARE FROM GUILFORD STREET, 1810



mourning over its loss. Your letter reached me at Hatton the very day or the day after the funeral. I was in no mood to welcome anybody or anything with smiles, for we were much grieved at the loss of an infant who had endeared itself very much to both of us, and to me it was painful to find that where I looked for consolation and hope I found disappointment and sorrow. The loss of my dear boy Horace, who died four years ago, will probably embitter the rest of my days; but the birth of a very promising child seemed destined to supply his loss and to afford a prospect that tho' I could not forget him, I should be reminded of him with pleasure and joy. But this new misfortune has deepened the shade, and made me (at least for a time) very indifferent to what is going on around me. I have no desire to cast upon you any portion of my grief or to throw any gloom upon the happiness that is dawning around you, and I should probably have called to see you, suppressing my own feeling, and endeavouring to share yours. But our house is in quarantine; two of the children (Anna and Helena) have become convalescent after scarlatina and are gone to Hatton. Laura is now in it, just recovering. Jessie, Freddy, Emily, and Edward are in the house and may have caught it, mixing with them all, as I have done, both at Hatton and here. I am not safe where there are children, and I have not been to Juliet,* Lady Martin,† or Sophy,‡ or to Croydon since the disorder appeared among us. You may easily believe how I dread the remotest chance of communicating the complaint to any of my grandchildren, for however mild it may be in

* Wife of his eldest son.

† His eldest daughter, wife of Sir Samuel Martin, appointed a Baron of the Court of Exchequer in 1850.

‡ First wife of his son, Charles Edward.

the person who is the cause of infection, the disorder, when taken, may occur in its worst and most malignant form. I think it prudent not to go myself, and perhaps it is not safe for Binnoo* to go, where there are children. We have still five that have not yet taken it of Binnoo's children, and I am not aware that any of the eleven (the elder branch) have had it except perhaps Emma. Richard in the *Earl*† is (poor fellow) in no danger. The mention of all these may make you wonder at my continued regret for those who are gone. I hope I am thankful (I cannot be sufficiently so) for the largest family of the best children I know anywhere; but I still feel it difficult not to dwell on what I have lost, and like a miser who has been robbed, he dwells more on what has been taken than on what is left, and tho' the case is not parallel, for he who gave may take away, yet submission to the will of Providence cannot prevent nature from asserting her rights. Jacob will still yearn after Joseph tho' eleven be left, and I find in the parable of the 100 sheep and the 100 pieces of silver we are told how much joy there was at the one lost sheep being found; but we are not told *how much sorrow would not have been sinful* if the sheep had not been found—if the search had been in vain. I write this that you may understand the state of things here. I should be sorry if any notion of ceremony kept us apart, and I think George might be in my Library without danger.

Yours very affectionately,
FRED POLLOCK.

Throughout his life his children were his great interest, and he wrote to them constantly, snatch-

* His pet name for his wife. She had been born in India, and the word means in Hindoostani "Little Sister."

† On his voyage to India.

ing a few moments in Court while his opponent was addressing the jury, or some other occasion for slackened interest, or release from duty afforded opportunity for the purpose. I give one as a specimen—a letter to my father, then aged twelve, who had recently gone to King's College School.

LIVERPOOL.

Wednesday, 11th September, 1833.

MY DEAR GEORGE,

We—that is, Frederick, Robert, and myself—arrived here to-day, and we were glad to hear you had escaped all the dangers of the Seas and were gone forward on Sunday last. I had some hopes of meeting you here, but I could not venture to make any arrangement to do so. Robert will leave us for London to-morrow, and be with you some time on Friday.

I was glad to hear a good account of your proceedings here, both going and coming. I am also much pleased with the Report they make of you at King's College. I need scarcely urge you to a continuance of your good conduct; it is the place of your own choice and I hope you will do credit to it, and in doing so gain honour to yourself and afford happiness to me. On my part nothing shall be wanting to give you every assistance and encouragement on your own. I hope nothing is wanting. You have but to use diligently the means that Providence has placed in your hands to secure all that Education can bestow.

Yours affectionately,
F. P.

The following letters are written to my mother towards the evening of his life, but illustrate the

close interest that he maintained in his family and the deep sympathy in the changes and chances that came to them.

HATTON,

HOUNSLOW, W.

Monday, 28th January, 1861.

MY DEAR FANNY.—DI!*

I cannot let Mary leave me to go to you without one line of (it can be nothing else) *blessing*. I have thought a great deal of you since you lost your Mother. It is the natural and the benevolent order of things that children should bury their Parents. The loss of a child to a Parent is far greater than the loss of a Parent to a child occurring in the natural course of events, when a long and useful life is closed by a death scarcely to be lamented.

I lost my Mother in the year 1817. Frederick and Robert alone were born at that time, and I remember saying to my Wife: "You have lost the only rival." My wife knew her value; she was the most unselfish woman. I ought in justice to the sex to say person, for women as a class are less selfish than men—she had a noble generosity, the remembrance of which has always influenced my character. Seven years before her death I attended her for six days—day and night—but I cannot write more, and I feel I am wasting my newly acquired strength. May God help you and enable you to find in your husband and children objects of *affection* and *duty*—which will cheer you on the way of life. I am quite disposed to be thankful for creation as well as for the "*above all things*," etc. I need not say

* My mother's second name was Diana and this abbreviation was used to distinguish her from his own eldest daughter, Fanny, who married Baron Martin.

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how much I love you and am sincerely and most affectionately Yours,

FRED. POLLOCK.

HOME CIRCUIT,
CHELMSFORD.

Wednesday, 9th March, 1864.
 $\frac{1}{2}$ to 7 a.m.

MY DEAR FANNY,

A thousand thanks for your letter, and ten thousand blessings attend you for the spirit in which it is written—a spirit which, were it universal, would make this world a paradise and leave us little to complain of. We are in Mid-Circuit and I have little time to write, as I would wish (and as I like) to write to you and some few others. It is really to me a pleasure to write letters and to read answers which are dictated by love and kindness, and now and then a light flashes across one's path connected with the great questions which interest human nature (the rest of the creation is unconscious of them) not unworthy of being remembered. Conversation does not so much lead to these coruscations; but I am losing all my time in reflections too general. As to myself I really seem almost restored to what I was three years ago—as far as capacity for getting thro' work is concerned. My limbs are more feeble, but under the careful regimen I maintain I find that I sleep well and find myself in the morning thoro'ly refreshed after the fatigues of the day. So much for the animal—in Soul and Spirit I am, with all love to George and the children,

Affectionately yours,
FRED POLLOCK.

HATTON,
HOUSLOW, W.

Tuesday, 11th October, 1864.

MY DEAR FANNY,

. . . I am behaving better in the matter of "*getting up*." I did not rise till 5 this morning. We had yesterday Julia with Eva and Florence; to-night I am to see Grace and 2 younger ones. This succession of grandchildren gives me more pleasure than would a series of the most brilliant receptions of all the nobles of Europe, and I see no reason why I should not enjoy it a year or two longer. All manner of love and kisses,

Yours very affectionately,

F. POLLOCK.

At his house in Guilford Street he had many friends who dined with him, not only lawyers, but many who were distinguished in science, art, or literature. One of them was Sir David Wilkie, who was brought into touch with some of the lawyers by his connection with Lord Campbell's family. Sir David's father had married first an aunt of Lord Campbell, who died in the following year (1777), and his second wife was the mother of the painter.* On one occasion at Guilford Street, when Sir David was a guest at dinner, a question arose as to whether a crack in a pane of glass in the dining-room had been caused by an injury inside, or by a missile from outside, and when he was asked his opinion he excused himself from giving any on the ground that "he was a painter and not a glazier."

Later on Thackeray, whom my father had met at

* See *Campbell*, vol. i., p. 173.

TO MY LORD CHIEF BARON,
BIDDING ME TO DINE WITH HIM ON YE LAST DAY OF MAY

By Fate's benevolent award, should I attain the day,
I'll drink a bumper with my Lord before the last of May.
That I may reach that happy time most fervently I pray,
For ducks and peas are in their prime upon the last of
May.

At thirty boards 'twixt this and then my knife and fork
will play,
But better wine and better men I shall not meet in May.
And though, good host who bid me dine! your honest
beard is grey,
And, like this powdered head of mine, has seen its last
of May,

Yet with a heart that's frank and kind a boyish spirit gay,
You've spring perennial in your mind and round you make
a May.

On another occasion Thackeray came down to stay for a Saturday to Monday at Hatton, and upon arrival greeted my Aunt Mary with the words: "How do you do, Miss Pollock? Dickens has killed his mother so mine must continue to live on." The allusion is to the death of Mrs. Copperfield. *David Copperfield* came out in monthly parts between May, 1849, and November of 1850. Mrs. Copperfield's death is recorded in chapter ix., published in the part issued in July, 1849. *Pendennis*, similarly, was issued in parts and commenced in November, 1848. Helen Pendennis dies in chapter xix. of the second volume, when more

than threequarters of the book had been issued, bringing that chapter to a somewhat later date than July, 1849. Perhaps Mrs. Pendennis would not have lived so long and died inconveniently abroad but for the earlier fate of Mrs. Copperfield?

By the end of the fifties my grandfather had come to prefer living at Hatton and going up and down to his work day by day from Feltham to Waterloo rather than staying in town, and the house in Guilford Street was used by him less and less, until by 1860 it was abandoned. Thenceforward he lived wholly at Hatton, a hamlet which lies some twelve miles from Hyde Park Corner and is in the parish of Bedfont, where Thomas Hood's "peacocks"—the yew trees fashioned by topiary art—are a well-known feature at the entrance to the church. The house is still to be seen in proximity to the new motor road where it leads on to the old main road to Staines.

In this home he lived a strictly family life and found his pleasures and maintained his health, for he was convinced that the air was the best suited to him and he rarely left it, even in the vacations. His habit of life was to go to bed early and get up at any early hour at which his sleep left him, for he did not believe in lying on his bed sleepless. Then he wrote letters or worked at mathematical problems till breakfast. Many of his letters are marked as written as early as between four and five a.m.! For mathematics he maintained his early love, and particularly for conic sections, and to these pursuits he devoted his leisure. They formed his entrancing hobby.



HATTON



As his family grew up and his residence there was more constant, the house at Hatton was enlarged. A large drawing-room was built, which was reached through a succession of rooms that had progressively been added to the original small premises. He had the means in this house to entertain friends who came to see him, or on a dine and sleep invitation, or for longer. The garden was steadily developed, for he was devoted to it, and trees were planted with judgment and taste. When he had originally gone to Hatton for his children's sake, the heath of Hounslow reached nearly to the house itself. Gradually farming cultivated the heath, and brought development to the estate, to which he had added from time to time as an investment. He was devoted to Hatton, which he spoke of as being "the product of no Long Vacation plus willingness to work," referring to the days when the Assizes continued far into August and even September, and left but a short time for any vacation before term began again.

In 1834 he bought "Little Hanworth Park," as it was called in contrast to Hanworth Park, which had in the eighteenth century belonged to the Dukes of St. Albans, and of which Horace Walpole writes in his letters.

Hanworth can claim a history and an association with well-known figures which is remarkable for a small and almost unknown village in Middlesex. It is mentioned in Domesday Book as "Hane-worde," and is assessed "at five hides." "Robert holds it of Earl Roger. The land is three ploughlands. In the time of King Edward it was worth

60s. Ulf, a huscarl (household servant) of King Edward, then held it." Its rectory was once held by Adam de Brome, who was almoner to King Edward II., and in 1324 founded and was first Provost of Oriel College, Oxford. Later in the fifteenth century the manor was held by Sir John Crosby, who built Crosby Hall, in Bishopsgate Street, now removed to Chelsea. In October, 1527, the French Embassy that visited Wolsey at Hampton Court, "were sent to ride to Hanworth, a place and park of the King's within two or three miles, there to hunt and spend the time until night."

There are various entries of the expenditure upon the pleasure seat which Henry VIII. had at Hanworth in the Chapter House accounts;* and ultimately that King settled it upon Catherine Parr.

The estate that my grandfather bought comprised three hundred acres, or more, of farm land, through which the sluggish river, the Crane, passes. There had been a good house on the property when it belonged to the Tollemaches; but this was destroyed by fire in 1806, leaving only the pump that had been in the scullery standing, as indeed it was in my day, for the use of the farmer whose farmhouse was a remnant of the stables of the Tollemaches. There was some shooting at Hanworth; good enough, at any rate, to afford General Peel some sport, for he used at times to come over from Marble Hill and join the shooting parties. In the days of the muzzle-loading gun, no very large bag was expected, or needed, for a day's shooting. There were partridges sufficient in number to afford

* E. 36, vols. 243 and 244.

a few days' sport, and some pheasants were to be found in the covers and the belts of trees which surrounded much of the estate.

Time, and in particular the Great War, has changed the face of this oasis in the midst of the houses creeping out from the outskirts of London; and although part of the estate is still farm land, the Southern Railway has taken a large portion of it for a shunting centre.

Yet one feature happily remains. On the banks of the Crane, and on the little eyots, or islands, that are washed by its water—some of which, rather curiously, and from the enclosure of this area from Hounslow Heath, belong to Isleworth Parish several miles distant—there still flourishes the beautiful wild balsam, *noli-me-tangere*, which, with its translucent green foliage and rich orange flowers, mark Hanworth as a favoured spot, for it is one of the few places in the South where it is to be found. In Britain generally its habitat is Northern England and North Wales, yet here within twelve miles of Hyde Park Corner it forms one of the beauties of the later summer and autumn.

CHAPTER VII

TRIAL OF THE CHARTISTS AT MONMOUTH

BEFORE dealing with the Lord Chief Baron's judicial career, I must bring to notice one or two notable cases in which he was engaged before he reached that post.

Chartism is no longer an impending evil to be feared, and indeed most of the reforms which were the items in the "People's Charter" have now been carried into law. But in the years from 1835 to 1848 the Chartists were a disconcerting factor in the body politic. "The Bill, the whole Bill, and nothing but the Bill," had been the cry as to reform which embraced the hopes of the people at large. They were disappointed to find that the Reform Act of 1832 did not bring the expected prosperity to the masses. It was true that the middle classes had gained political power, and further agitation for reform had been quelled by the satisfaction felt by those whom the Act had enfranchised. They had no enthusiasm for a further extension of the franchise, or for watering down the power which they had gained.

By the year 1835 commercial depression had set in, and its effects were emphasised by a succession of poor harvests. Manufactories were closed, work became scarce, and the cost of food rose. Under these influences in 1838 a committee of six Mem-

bers of Parliament and six working men prepared a Bill which embodied the aims and demands of the people. This Bill was called the People's Charter. It contained six items, which may be summarised shortly: (1) The extension of the franchise to all males; (2) equal electoral districts; (3) vote by ballot; (4) annual Parliaments; (5) no property qualifications for Members of Parliament; (6) payment of Members.

The lapse of ninety years has put these claims into a very different perspective from that in which they were viewed when announced.

"As yet I am a decided enemy to Ballot," wrote Campbell.* "It would have a feeble effect in checking bribery, but it could not at all check undue influence, except in as far as it promoted falsehood and hypocrisy." Indeed, when the Ballot Act was passed in 1870, in order to meet the opposition to it and render it a tentative measure, its operation was limited to one year; and thenceforward, until a few years ago, it was continued each year in the Schedule to the Expiring Laws Continuance Act.

In 1838 the programme outlined by the Bill was received with enthusiasm. In June, 1839, a petition in favour of the Bill was presented to the House of Commons bearing 1,280,000 signatures; the House refused to name a day for the consideration of the petition, and the popular clamour gathered in force. In the early part of that year, however, there had prevailed comparative quiet in the Chartist Movement. The Attorney-General,

* *Campbell*, vol. i., p. 503.

Sir John Campbell, had, at a meeting of his constituents at Edinburgh in the recess, boasted of "our having entirely put down Chartism by legal and constitutional means."

The peaceful situation was broken rudely and almost immediately afterwards by an outburst in Monmouthshire led by John Frost. This led the wits of the time to quote against the complacency of the Attorney-General the well-known lines from Shakespeare's *Henry VIII.*:

The third day comes a frost, a killing frost,
And,—when he thinks, good easy man, full surely
His greatness is a-ripening,—nips his root.

The Attorney-General was called upon to prosecute Frost and his associates for high treason. There had been no trial for high treason since that of Thistlewood in 1820, and though such trials had been common in the previous century, the practice of charging high treason had become very infrequent. Lord George Gordon was tried for treason in 1781, Hardy and Horne Tooke in 1794, Maclean and O'Coigly and others in 1798, after which there was an interval until the trial of Watson in 1817, and, lastly, of Thistlewood in 1820. Frost's trial for treason in 1840 had no successor till Casement was tried for the same high offence in the course of the Great War.

Sir Frederick Pollock was selected by those who supported Frost to defend him, and he was assigned to the prisoner accordingly. With him was associated, as his junior, Fitzroy Kelly, who afterwards succeeded him as Chief Baron of the

Exchequer, and was the last to hold that office and title. The trial has many features of interest, and it was one of the most important cases in which Sir Frederick appeared.

The story of Frost's rising may be told very shortly. The area in which it was to begin was the hill district near Newport, Monmouth, between the rivers of the Rhymney and the Sirdowy, and the town itself, which stands upon the highway from South Wales to Bristol, Gloucester, and Birmingham, and to the North of England. Plans were laid for a general rising on Sunday, 3rd November, 1839, when the men who took part were to arm themselves and march in three divisions upon Newport. John Frost was to march from Blackwood, which lies between the rivers already named, at the head of one division, Zephaniah Williams, who lived higher up the country and kept a beer shop at Coalbrook Vale, near Nantyglo, was to lead the second, and the third division was to be under the control of one William Jones, a watchmaker of Pontypool, who was to collect men from the North and East.

The three divisions were to meet near Risca, about five miles from Newport, at midnight, and to march so as to reach it about 2 a.m., when the inhabitants would be asleep, to attack and overcome the troops quartered in the town, to take possession of it and to break down the bridge which there crosses the river Usk at its mouth. By this latter act they would stop the mail to Birmingham from Bristol; and those in concert with them, upon the failure of the mail to reach Birmingham at the

time it was due, would thus learn that the rising and attack upon Newport had been successful. Thence the message would be sent throughout the Midlands and to the North. There was thereupon to be a general rising throughout Lancashire and the country generally. Charter Law was to be universally and instantly established.

The scheme miscarried from the outset. The division under Williams did not arrive till after the *mêlée* described below had taken place; that under Jones was later and did not get beyond Malpas; and Frost's army was delayed long after the appointed time. However, Frost collected what men he could and marched upon Newport at dawn. In all he was accompanied by 5,000 men, some armed with guns and pistols, many with spears and pikes, others with mining pickaxes—and scythes fixed on poles, and sticks and bludgeons, were made to do duty for want of better offensive weapons.

This contingent marched as far as the Westgate Inn at the outskirts of the town. Thither some thirty soldiers under Lieutenant Gray were sent from the barracks to the assistance of the mayor, who had stationed police there and joined them himself. Frost learned that the inn was occupied by soldiers, and, failing to gain an entrance otherwise, he gave the order to fire upon the windows of the room where the soldiers were. The military returned the fire. Several fell wounded on either side, and one or more were killed. On this there was a speedy dispersion of the insurgents, who were scattered in all directions. Frost himself beat a retreat towards

Tredegar Park, and was arrested in the evening at Newport, with loaded pistols and ammunition upon him.

On 19th November a special Commission of oyer and terminer was issued "to inquire of certain High Treasons and Misprisons of Treason," and a special Commission of gaol delivery as to all persons who were or should be in custody for such offences on or before 11th December. The Commission was opened at Monmouth on 10th December by Sir Nicolas Tindal, the Lord Chief Justice of the Common Pleas. The trial was at Bar when three judges sit, and his colleagues were Baron Parke, whose well-deserved reputation as a great lawyer among his contemporaries still remains, even if he is held to have been too precise and exacting, and Mr. Justice Williams, commonly known as Johnny Williams, a wise and experienced judge.

Tindal's charge to the grand jury deserves attention. It is a model of lucid and terse exposition, to which reference will be made later.

On the following day true bills for treason were found against all the prisoners, and the assize was adjourned till Tuesday, 31st December, 1839. On that day the trial of John Frost began. My father, then aged seventeen, was present throughout, for Sir Frederick sometimes took with him one of his sons on circuit as an offset against the loneliness of long journeys by postchaise. It was in this manner that he was present as a boy at York Assizes and heard Sir James Scarlett address a jury in the year 1832. This opportunity of hearing the great advocate and winner of verdicts was prized by my father to

the end of his days, and was accompanied by a curious incident.

My father sat in the Court at York in the row behind Scarlett, and, boy-like, took an opportunity of slipping his spectacles, which hung on a black ribbon, down Scarlett's back between his coat and gown. When Scarlett rose the next time to read some document, he could not find his spectacles. A great hunt followed, and my father's act of mischief was discovered and apologised for. Fifty years or more afterwards a solicitor named George Sharp, who had been present on this day in Court, was anxious to present a small portrait of the Chief Baron, which he had secured from Staple Inn, to the boy who had played miscreant on the occasion, if he was still alive. He knew his name was George. There were, however, several other George Pollocks. To solve the question as to which was the right one he consulted another solicitor. As it chanced this man knew my father well. Sharp told him that the George he wanted would be able to justify himself, if he could remember and describe the incident above mentioned. My father, when approached, gladly did so, with the result that he was given the portrait of his father, which is now in my possession.

To return to the trial of Frost. Upon the facts above related, it was plain that many of the insurgents might have been prosecuted individually for crimes not uncommon in the criminal Courts; for murder or manslaughter, for injuries inflicted with intent to do grievous bodily harm, unlawful wounding, or the like; but it was deemed advisable to pros-

ecute the ringleaders for the greatest offence known to law, high treason, otherwise they might have escaped from lack of evidence precise enough to convict them individually of their crimes.

The law of high treason depended then upon two Statutes, the one of the twenty-fifth year of Edward III. (1352), the latter of the thirty-sixth year of George III. (1796).^{*} The Chief Justice, in his charge, explained to the grand jury the scope and effect of these Statutes, and cited the authority of Lord Chief Justice Hale (1671) and Sir Michael Foster, explaining that :

“Every insurrection which in judgment of law is intended against the person of the King, whether to dethrone or imprison him, or to oblige him to alter his measures or government, or to remove evil counsellors from about him; all such risings amount to a levying of war within the Statute. So, insurrections to throw down all enclosures, to alter the established law or change religion, to enhance the price of labour, or to open all prisons; all risings in order to effect these innovations of a public and general concern by an armed force are, in construction of law, High Treason within the clause of levying war; for though not levelled at the person of the King, they are against his Royal Majesty; and, besides, they have a direct tendency to dissolve all the bonds of society, and to destroy all property and all government, too, by numbers and an armed force. Insurrections, likewise, for redressing national grievances, or for the reformation of real or imaginary evils of a public nature, and in which

^{*} By 57 Geo. III., Sect. I., the Act of 36 Geo. III., was made perpetual. By 11 & 12 Vict., Cap. 12, the law was altered in several particulars.

the insurgents have no special interest; risings to effect these ends by force and numbers are, by construction of law, within the clause of levying war, for they are levelled at the King's crown and royal dignity."

The conclusion of the charge illustrates that concern for, and fairness towards, the accused which has so often been admired in the administration of British justice and, indeed, envied by foreign nations.

"Gentlemen, in conclusion, I entreat you," said Sir Nicolas, "that in approaching this investigation you will dismiss from your minds all which you may have heard upon the subject before you entered this Court; and that in the performance of your important office, whilst you will rejoice when the weight of evidence is so light that you can consistently with your duty at once dismiss the party accused to his liberty and his home, you will at the same time watch over yourselves with jealousy, that you weigh the evidence brought before you with a firm, steady, and uncompromising mind, looking to the performance of your duty and to nothing beside, and utterly regardless of all consequences which may follow from the performance of it."

The evidence for the Crown was given by some forty witnesses, who proved the facts opened by the Attorney-General, which have been outlined above. The main defence insisted upon by the counsel for the prisoners upon the facts proved, which they were unable to displace by the evidence they called, was that however much those facts might render them liable to prosecution for other offences, such

as have been already indicated, they did not establish any ulterior purpose on their part of that general nature and character essential to the proof of a charge of high treason. As Tindall C.J. put it :

“A seeking by dint of numbers and by force to take possession of the town, and to usurp the Queen’s power within the same, or to force the beginning of a rebellion and revolt in the Kingdom which would undoubtedly amount to the offence of High Treason against the Majesty and Sovereignty of the Queen.”

There was, however, a technical point on which my grandfather relied, and which he believed would be fatal to the prosecution. The point arose upon the construction to be placed upon 7 Anne, Cap. 21, Sect. 11, which for the first time gave the prisoner a right to have delivered to him a list of the witnesses, and a list of the jury, together with the indictment. Its terms provide—

“When any person is indicted for High Treason or Misprision of Treason, a list of witnesses that shall be produced on the trial, for proving the said indictment, and of the jury, mentioning the names, profession, and place of abode of the said witnesses and jurors, be also given *at the same time* that the copy of the indictment is delivered to the party indicted.”

And further—

“That copies of all indictments for the offences aforesaid with such lists shall be delivered to the party indicted ten days before the trial, and in the presence of two or more credible witnesses: any law or Statute to the contrary notwithstanding.”

The terms of this section as to the delivery of the list of the jurors to the party indicted for High Treason were repealed by Sect. 62 of 6 George IV., Cap. 50 (1826).

The grand jury found the true bill against Frost on 11th December. The Solicitor to the Treasury, in the presence of witnesses, delivered a copy of the indictment with a list of the jury to Frost on 12th December; on the 17th December the list of witnesses was similarly delivered to him; and it appears that the further supplementary lists of witnesses were delivered by the solicitor's agents. These lists were all delivered ten days before the trial, so that the section above quoted was in that respect complied with. But the lists were not delivered *at the same time* that the copy of the indictment was delivered. The point was highly technical; but technical points have often been relied upon and allowed, especially upon the trial of a man for his life. Moreover, the Court treated the point as one of importance and difficulty. My grandfather hoped that the point would take the Crown lawyers by surprise. His expectation was not realised. The diligence of Sir John Campbell was well known, and the point had not escaped him. My grandfather used to pay his tribute to his opponent, whom he thus found on his guard. The point was argued at great length, occupying most of a day. Many authorities were adduced, and many treason trials examined on either side. At the conclusion the Court determined to allow the trial to proceed, but reserved a case for the Court of Crown Cases.

They delivered their judgment as follows :

“We are not prepared to say that the objection on the part of the prisoner is valid; but it involves a question upon which no direct decision has taken place, and which calls for very serious consideration. It is the more important, as the same objection may apply itself, under existing circumstances, to several other cases in which indictments for the same offence have been found and the other prisoners arraigned. We propose to take a course on the present occasion which will prevent the possibility of an overhasty decision operating on the one hand to the prejudice or disadvantage of the prisoner, and on the other hand causing a failure of public justice. We shall allow the trial to proceed, and shall take the opinion of Her Majesty’s Judges on the validity of the objection, supposing such proceedings should eventually become necessary by the verdict of the jury.”

Next morning Sir Frederick Pollock laid emphasis upon the latter part of this decision and secured an interpretation of it which in his opinion saved his client from the death penalty. He said :

“I presume, my lord, the effect of (the decision) would be to place Mr. Frost in precisely the same situation as if it had been decided in his favour. . . . I am merely asking . . . that in the event of your Lordships being of opinion that the objection ought to have prevailed at the trial, Mr. Frost may be placed in the same situation as if it had prevailed.”

The Lord Chief Justice :

“No doubt about that; he will be in the same situation as if we had decided it at the time, if, upon consideration and consultation with the Judges, we

think the objection ought to have prevailed, it will be as if it had prevailed at the moment."

Another point had been made by the Attorney-General which must be noticed. He claimed that the objection was taken too late. That it ought to have been taken before and not after the prisoners had been arraigned.

The trial proceeded.

The summing-up of the Chief Justice is a model for fairness, probably the more effective and deadly on that account. He stated the rule of law in three sentences.

"To constitute High Treason by levying war there must be insurrection; there must be force accompanying that insurrection; and it must be for the accomplishment of an object of a general nature."

He concluded his words by verily giving the prisoner what is called "the benefit of the doubt":

"It is only if the Crown have made out (the charge) so clearly and conclusively that you cannot entertain a just and reasonable doubt of the degree of his guilt that you are to find him guilty."

Frost was found guilty after the jury had deliberated but for half an hour.

The following day the trial of Zephaniah Williams was proceeded with, and at the end of four days more he was also found guilty. William Jones was thereupon tried and likewise convicted. The jury in all their cases tendered recommendations to mercy.



THE TRIAL OF JOHN FROST AT MONMOUTH COURT HOUSE, JANUARY, 1840

—SIR FROST'S PLACE IS MARKED BY A WINDSHIELD—

On 16th January all three were condemned to be hanged, drawn, and quartered.

As to the remaining prisoners against whom indictments had been found, ten withdrew their previous pleas and pleaded guilty; while as against four the Attorney-General offered no evidence.

My grandfather remained confident that his client was not to suffer the death to which the verdict rendered him liable. He writes to his great friend during the closing period of Frost's trial :

MONMOUTH.

Tuesday, 7th January, 1840.

MY DEAR WRAY,

The letter I hastily wrote the other day while in Court did not, I believe, convey back my wishes for the health and happiness of you and yours for many years to come. I now supply that omission cordially and sincerely.

My cares and anxieties here are over. Kelly is summing-up, and I am sitting by him. I was 5 hours at it yesterday, but with what effect I know not—with what success can only be known by the Verdict. I expect I shall *read* very dull, but comments on evidence must be so. We are certainly not without hopes that Frost may be acquitted and that the magnificent point of law reserved by the Judges may never be decided, for I will venture to say the mistake will never be made again.

I expect to get away to-night or to-morrow, but shall hardly be in London before Saturday next, the 1st day of Term, soon after which we must have a family party to introduce to your notice Robert's intended wife, with whom he means to return to India next spring.

You would hardly believe how little interest this

affair excites in Monmouth itself. I have never seen the Court crowded; there is no tumult or even noise; not the least disturbance or disorder; and so little is the excitement that one is induced to wonder for what purpose *expresses* are sent daily and twice a day. My speech went yesterday and is no doubt in the London papers this morning. Frost's life is considered by all here as quite safe. I am firmly persuaded the point is perfectly good, and that they will not settle the practice in treason (if it be doubtful) by hanging a man.

Ever yours,
F. P.

The case reserved stated both the above points for the Court's decision, and was argued in the Court of Exchequer Chamber on the 25th, 27th, and 28th January, and on that day the determination of the judges was stated by Sir Nicholas Tindal in his letter to the Home Secretary as follows:

"First, a majority of the judges, in the proportion of nine to six, are of opinion that the delivery of the list of witnesses was not a good delivery in point of law.

"But, secondly, a majority of the judges, in the proportion of nine to six, are of opinion that the objection to the delivery of the list of witnesses was not taken in due time.

"All the judges agreed that if the objection had been made in due time, the effect of it would have been a postponement of the trial, in order to give time for a proper delivery of the list.

"The result, therefore, of the determination of the judges is, that the conviction is right."

A curious result emerged from this decision. From the report of the argument of the case before

the full Court (reported in 9 C. and P., 165) it appears (p. 187) that Tindal C.J. was of opinion that the objection to the delivery of the list of witnesses was wholly unfounded; but Parke B. and Williams J. were of opinion that the delivery of the list of witnesses was not a good delivery, and that the objection was taken at the proper time. The result, if decided at Monmouth, therefore, would have been that the objection taken on behalf of the prisoner would have prevailed. My father has always told me that, having regard to the Chief Justice's explicit assurance to my grandfather, and the arithmetical result if the decision was treated as delivered *nunc pro tunc*, it was felt impossible to carry out the death sentence. On 1st February the sentences of death upon Frost, Jones, and Williams were commuted to transportation for life.

There remains one further incident to be recorded that arose out of the trial. The associates of Frost and the other prisoners were so grateful to my grandfather for his deft and skilful handling of the case that it was proposed to give him a testimonial, and subscriptions for this purpose were invited publicly. My grandfather was placed in a very delicate position. He had been Attorney-General in the hundred days' Government of Sir Robert Peel in 1834. He was destined to return to that office as and when Sir Robert returned to power. In 1840 the Ministry of Lord Melbourne was moribund; no one anticipated that it would last more than a few months. In fact, Sir Robert Peel became Prime Minister in 1841, and my grandfather's patent as Attorney-General in his Ministry is dated

September of that year. It was ungracious to refuse the testimonial; it was embarrassing to accept it with the possibility—if there should be a recrudescence and further outbursts of the Chartists—of having to prosecute some of the donors and grateful admirers. Happily, the project did not go far, as it was brought to a sudden termination, the treasurer absconding with such sum as he had collected!

CHAPTER VIII

WRIGHT v. TATHAM

THIS is one of the most famous cases in which my grandfather appeared as counsel. It passed through a succession of Courts, and engaged the talents of many distinguished men at the Bar. It came before so many tribunals, and its course was so prolonged, that many of those who had been engaged in it found themselves upon the Bench when it once more made its appearance before the Court to which they had become attached.

John Marsden was born in 1758 and died in 1826, at a time when he was the owner in fee of the manors of Hornby and Tatham with the rectory of Hornby; a large property with a fine residence, Hornby Castle, situate upon the River Lune in the County of Lancaster. He made a will by which he devised his estates to Wright, who had at one time been in a menial position in his service, but rose to become Marsden's steward. This will was disputed by his heir-at-law, Admiral Sandford Tatham, on the ground that Marsden was not of sound mind and memory, or capable of making disposition of his property by will. The witnesses called on behalf of the heir-at-law stated that Marsden had been from boyhood extremely weak in understanding, and that at seventeen or eighteen years of age he was not more intelligent than a child of eight. It was

sworn that after he had attained manhood he was not able to count beyond a very low number; that he was incapable of conducting business, and asked childish questions on the most simple matters relating to his own property; that he displayed imbecility in his amusements, and had been seen playing in a ridiculous manner with an idiot. It was said that in his youth in the village where he lived, he was called "Silly Jack" and "Silly Marsden." There were other matters and incidents relied upon in the evidence to establish the fact that Marsden was not of sufficient intelligence to make any testamentary disposition. In particular, it was stated that on one occasion when Marsden passed the evening at a gentleman's house in company with the Rev. Henry Ellershaw, who was perpetual curate at Hornby, the elder persons of the family sat down to whist, and that Ellershaw mentioned that Marsden was unable to play, whereupon some children were sent for and he was set down to play with them at loo, at a side table, while a manservant superintended the game. The evidence given in support of the will represented Marsden to have been a man, not of strong mind, but of understanding adequate to the making of a will; that he had a tenacious memory, enjoying the amusements usual among men of his station in life, keeping up a large acquaintance, and entertaining at his house persons of equal and superior rank to his own.

Evidence was given that he wrote numerous letters and executed many deeds which were attested by persons of undoubted character. Letters were also tendered on behalf of the case

of those who supported the will, and it was the question of the admissibility of these letters that afforded the stumbling-block to the decision of the case and caused it to pass through so many vicissitudes. They were letters written to Marsden by persons since dead. They were found with many others papers in a cupboard under a bookcase in the library at Hornby Castle, where he lived at the date when his will was made. This library was the room used by the testator, and known as his study. The letters were found soon after Marsden's death. They had been opened; but there was no evidence as to when they were placed where they were found. It was not proved that any answers had been returned to them or that Marsden had acted upon the contents of them.

They were submitted as evidence to show how Marsden was treated by persons well acquainted with him. They were six in number, and are set out in full on pages 317-321 of the Report of the case in 7 Ad. and E. I give three of them, which are illustrative of the others, and those upon which the greatest reliance was placed by the counsel who tendered them.

*From Charles Tatham, Mr. Marsden's cousin,
who, at the time of writing, was in America.*

MY DEAR COUSIN,

You should have been the first person in the world I would have wrote to hadn't my time been Imployd by affairs that called for my more imeadeate attention in the first place I am calld upon by

my Buseness it being the first consideration must by no means be neglected. As for my Brother his goodness is Such that I know he will Excuse me till I am more disengaged was I to write to him in my present Embarased situation I might perhaps only do justice to my own feelings and he might construe it deceit so different an oppinion have I of him to Mankind in Genl. who above all things are fond of Flattery. I shall now proceed to give you a small idea of what has passd. since my Departure from Whitehaven as I supose Harry long ere now has told you the rest. We saild the 14th July and had Good Weather the Chief of the Way but as you know nothing of Sea fareing matters it is not worth While to Dwell upon the Subject. We Reachd. the Cape of Verginia the 13th Septr. but did not get heare till the begining of the present Month so we were about twenty Days in coming 350 miles. When I arivd. I was no little consirned to find the Town in a Most Shocking Condition the People Dieing from 5 to 10 per day and scarsely a Single House in Town cleare of Descease which proves to be the Putrid Fevour—I am going to Philadilphia in a few days if God Spares my Life and permits me my Health and their I intend to stay till Affairs here bare a more friendly Aspect and so the Next time you here from me will be I expect from that Place tho' Youl Please direct to me heare as Usual. God Bless You my Dear Cousin and may You still be Blessed with health which is one of the greatest Blessings we require hear is the sinseare wish of Dr Cosn.

Your Affect. Kinsman and very Humble Servt.,
CHA. TATHAM.

P.S.—Pray give my kind Love to my Aunt My Brother and My Cousin Betty allso my Comple-

ments to all the rest of the Family and all others my former Acquaintances, etc.

ALEXANDRIA.

12th October, 1784.

Address:

JOHN MARSDEN, ESQUIRE,
WENNINGTON HALL,
LANCASTER.

From the Rev. Oliver Marton, Vicar of Lancaster.

DEAR SIR,

I beg that you will Order your Attorney to Wait on Mr. Atkinson, or Mr. Watkinson, and propose some terms of Agreement between You and the Parish or Township or disagreeable things must unavoidably happen. I recommend that a Case should be settled by Your and their Attorneys, and laid before Council, to whose Opinion both Sides should submit, otherwise it will be attended with much Trouble and Expence to both Parties.

I am, Sr., with compliments to Mrs. Coochson,
Your Humble Servant, etc.,
OLIVER MARTON.

I beg the favour of an answer to this.

JOHN MARSDEN, ESQ.
WENNINGTON.

May ye 20th, 1786.

From the Rev. Henry Ellershaw, on resigning the perpetual curacy of Hornby, to which Mr. Marsden appointed him.

DEAR SIR,

I should ill discharge the obligation I feel myself under, if, in relinquishing Hornby, I did not offer you my most grateful acknowledgments

for the abundant favours of your Hospitality and Beneficence. Gratitude is all that I am able to give you, and I am happily confident that it is all that you expect; I have only therefore to assure you that no Circumstances in this World will ever obliterate from My Heart and Soul the remembrance of your benevolent Politeness. May the good Almighty long bless you with Health and Happiness, and when his Providence shall terminate your Xtian Warfare upon Earth, may the Angels of the Lord Welcome you into Blessedness everlasting. It will afford me Pleasure to continue my Services during the Vacancy, if Agreeable to you. With every sentiment of Respect and Affection to yourself and the worthy family at the Castle, I hope you will ever find me,

Your grateful, faithful, and obliged Servt.,
HENRY ELLERSHAW.

Please to deliver the Inclosed to Mr. Wright.

CHAPEL LE DALE.

3rd October, 1799.

The will was dated in 1822 and there was a codicil dated in 1825, and Marsden died in 1826.

The first proceeding taken was by a Bill in Chancery filed by the heir-at-law, Admiral Tatham, against three persons who took an interest under the will, praying that the will might be declared to have been obtained by fraud and undue influence and to be void. The Master of the Rolls, Sir J. Leach, directed issues of *devisavit, vel non*, to be tried, and made the devisees, who supported the will, the plaintiffs in the issue, and the heir-at-law the defendant.

The issues were tried at York, on account of the

prejudice supposed to exist in Lancashire, before Park J., at the Spring Assizes in 1830.* The plaintiffs proved the due execution of the will by calling one of the attesting witnesses, one Bleasdale. There were two other witnesses on this point available, for at that date and before the Wills Act passed in 1837, the execution of a will depended upon Section 22 of the Statute of Frauds passed in 1677 (29 Car. II., Cap. 3), which required three witnesses for the purpose.

The counsel engaged in the case were Bickersteth, Frederick Pollock, and Walker for the plaintiffs, the devisees; and Brougham and Duckworth for the heir-at-law.

The letters already referred to were tendered in evidence and rejected as inadmissible. The jury found in favour of the will, my grandfather succeeding at that time, as he so often did, against the scintillating advocacy of Brougham. Then a motion was made for a new trial before the Master of the Rolls. That was heard on the 29th and 30th April, 1831, when the same counsel appeared as above.

Three points were taken in support of the application: (1) That the judge had not presented the case fully and fairly to the jury; (2) that the verdict was against the weight of the evidence; (3) that the plaintiffs ought to have called all three attesting witnesses.

The motion was refused by Sir John Leach, who gave judgment. He held upon the first two points that the verdict was right, and that if the jury had

* See per Tindal C.J., 2 R. and Milne, p. 1.

come to any different conclusion upon the evidence he would have felt it his duty to direct a new trial, because it was so strongly in favour of the devisees; and upon the third point that as the other witnesses were tendered, and an opportunity afforded to the heir-at-law to call them, he could not afterwards object to the absence of their testimony.

Thereupon a motion on appeal from the Master of the Rolls was brought before the Lord Chancellor, who at the time it was heard, on the 11th May, 1831, was none other than Lord Brougham, the counsel for the heir-at-law. Placed thus in a difficulty, he summoned Sir Nicolas Tindal, the Chief Justice of the Common Pleas, and Lord Lyndhurst, then Lord Chief Baron, to sit with him and hear the case.

Judgment was given on the 11th June, 1831, dismissing the appeal and refusing the motion for a new trial; but although the Lord Chancellor adopted it and gave it his authority, he explained that it was the conclusion reached by his colleagues in the case, the Chief Justice and Chief Baron.

On the 25th November, 1831, on an application for further directions, the Master of the Rolls dismissed the bill and observed that the defendant, the heir-at-law, could have proceeded to enforce his rights by an ejectment action. This course he accordingly adopted, and he brought ejectment against Wright alone, leaving out the other two devisees against whom he had proceeded by his bill in Chancery. The case was tried before Baron Gurney at the Spring Assizes at Lancaster in 1833 when Sir James Scarlett was counsel for the plain-

tiff and my grandfather appeared for the defendant Wright.*

The defendant, who relied upon the will, was allowed to prove his case first, for it was admitted that Marsden had died seized of the estates which the action was brought to recover, and that the plaintiff was his heir-at-law. Thus, if the defendant could not prove the will, the plaintiff's title was effective against him. An order had been made in this action that the shorthand writers' and judge's notes of the evidence of the witnesses called upon the trial of the issue before Park J., who should be dead at the date of the trial of the ejectment action, should be read at this later trial. Accordingly my grandfather at the trial produced the *nisi prius* record of the trial of the issue with the *postea* endorsed, whereby it appeared that the jury had found that Marsden did make a good devise by his will, and tendered that same will in evidence and the evidence of the one attesting witness who had been called—Giles Bleasdale—who had since died, but whose evidence was recorded in the notes which were produced in accordance with the rule above mentioned.

It appeared on cross-examination of one of the witnesses that one, Proctor, who was also an attesting witness to the will, was alive and was in Court and so available to give testimony as to the will, but he was not called. Objection was taken that this witness should have been called and that proof of the will was insufficient without his testimony. The learned judge acceded to this contention and

* 1 A. and E., p. 4.

then held that the will had not been proved, and directed the jury to find for the heir-in-law. The defendant tendered in evidence once more the letters to which I have already referred, but Baron Gurney, following the decision of Park J. on this issue, rejected them. It was upon the admissibility of these that the controversy turned and became acute in this and the subsequent phases of the litigation, for the appellate Court had no difficulty in eliminating the other point and in reversing the decision of Baron Gurney upon the evidence required to prove the will.

The case came before the Exchequer Chamber, (which was then the highest Court of Appeal except the House of Lords) upon a bill of exceptions, which was the procedure necessary if it was intended to keep open the right of appeal from the Exchequer Chamber to the House of Lords. In the case of an appeal for a new trial or *venire de novo*, there was no appeal from the Courts at Westminster to the House of Lords.

My grandfather argued the appeal for Wright, and Sir James Scarlett was for the successful plaintiff below.

The case was argued on the 18th January, 1834, before seven judges: Tindal C.J., Park J., Gaselee J., Bosanquet J., Bayley B., Vaughan B., and Gurney B.—truly a strong Court. In the present day a judge who has tried a case cannot take part in subsequent proceedings on appeal. If that rule had then prevailed, Park J., who had tried the issue at York, Tindal C.J., who had sat on the appeal from that trial, and Baron Gurney, who had tried

the case and whose ruling was in issue on the appeal, would have been disqualified from sitting. The old rule was based upon the view—and there is much to commend it—that the trial judge could inform his brethren as to what had occurred at the trial and prevent the evidence being misunderstood, or the counsel from adopting an attitude not quite the same as they had maintained when the cause was in the Court of first instance.

The Court had a difference of opinion as to whether the letters were admissible, so no decision was given upon that point; but they were agreed that Baron Gurney was wrong in excluding the recorded evidence of Bleasdale and requiring the living witness, Proctor, to be called. Sometimes, as Solomon says, “A live dog is better than a dead lion,” but the testimony as to the execution of the will was complete when Bleasdale had given it subject to cross-examination, and it had been duly recorded.

The proof of a will by three witnesses required by the Statute of Frauds was intended to act as a guard or security to the testator to protect him in the execution of his will against force or fraud or undue influence; but proof of execution of a will could be given by one witness, and it was only a secondary benefit of having three witnesses that three alternative proofs would be available when its attestation had to be proved. In the result a new trial was ordered.

This year, 1834, saw many legal changes. Sir John Campbell became Attorney-General, and Parke and Alderson JJ. were moved into, and be-

came Barons of the Court of Exchequer, where they exercised their great powers.

Later, in December, on Sir Robert Peel taking office, my grandfather succeeded Campbell as Attorney-General.

The case, as ordered, went down to the Assizes and was tried again before Baron Gurney at Lancaster in August of the same year. The recorded evidence of Bleasdale was admitted. Proctor was not called. The letters were tendered and on this occasion admitted, and the jury found for the will and against the heir-at-law. Once more the fight was between my grandfather for the will and Sir James Scarlett for the heir-at-law; and this time the great advocate—whose supremacy in that vocation had been epigrammatically summarised by his local critic at York as being “always on the right side”—was defeated. The following extract from a letter written by my grandfather to his son records his satisfaction at the result achieved :

BANGOR.

7th September, 1834.

Of course you will have heard of the end of the long cause, which I trust is now over for good and all. Fanny was in Court during the whole of my reply, which lasted from $\frac{1}{2}$ past 12 till 6. Martin brought us the news of the verdict to Liverpool and was in glorious spirits at the result—it has taken a great weight off my mind. Ever since old Giles Bleasdale died it has been my nightmare—“The hag that rode my dreams.” The other side waited till he was dead and then brought the action, hoping we should be obliged to call Proctor, a surviving subscribing witness who was adverse to us. Last Spring twelve months I made my stand and refused

to call Proctor. Gurney directed a verdict for Admiral Tatham, and I tendered a Bill of Exceptions. The Judges in Exchequer Chamber decided unanimously that I was right, and thus laid the foundation for our present success. It is curious that this cause has led to 2 important decisions—one in Equity (contrary to the opinion of Sir E. Sugden and all the Equity Lawyers) the other at Law contrary to the opinion of Sir J. Scarlett and Starkey—but it will be time enough for you to be bothered with Law a few years hence.”

The hope that the cause was over for good and all was not realised, for in the following Michaelmas term Scarlett obtained a rule *nisi* to set aside the verdict on the question of the admissibility of the letters.

The argument upon the rule was not heard till the 21st and 22nd of January, 1836. By that time my grandfather had been, and ceased to be, Attorney-General. Scarlett had become Lord Abinger and Lord Chief Baron. Yet the phalanx of counsel on either side showed many distinguished barristers. My grandfather led, and had with him Sergt. Archerley—whose name had previously been Jones—Wightman, Tomlinson, and Martin, while on the other side were Cresswell, Starkie, and Armstrong. The Court was composed of Lord Denman C.J., Littledale and Coleridge JJ., and also Sir John Patteson and Sir John Williams JJ.,* but the Chief Justice declared that the judgment was to be considered that of the first three, as the other two had been engaged in the case at the Bar and so took no part in the deliberation.

* See 7 A. & E., p. 330.

The decision given on the 1st February, 1836, was that the letters must be rejected. The Court referred to the argument upon the same point in the Exchequer Chamber when no decision upon it had been reached, and stated that there was reason to believe that of the seven judges who had heard the case, four thought they were receivable, and three that they were not. However, the decision was that the letters must not be received, and so a new trial was again ordered. Sir Frederick Pollock made an appeal that the Court should examine the evidence apart from the letters, and if satisfied that there was enough to support the verdict, they should refuse to order a new trial. But this suggestion was not accepted; and once more, for a third time—indeed, for a fourth if the first trial of the issue is added—the cause went before a judge and jury.

This time it was tried at the Summer Assizes of 1836 at Lancaster, on the 6th August, before Coleridge J., the first of the three successive generations of that distinguished family that have sat upon the Bench. The same evidence was given, the same proof of the will; but, in accordance with the last decision of the appellate Court, the letters, though tendered, were rejected. The jury found this time for the heir-at-law.

Bills of exception were tendered on both sides, and my grandfather strenuously contended for the admission of Letters I., II., and III. He alone presented the argument and Cresswell answered him. This hearing was on the 6th February, 1837, before Tindal C.J., Park, Gaselee, Bosanquet JJ.,

and Parke and Gurney BB. But before judgment was delivered, Gaselee J. retired and Coltman J. took his place. The Exchequer Chamber required the appeal to be reargued before the Court composed as above, with the exchange of Coltman J. for Gaselee J. My grandfather's argument was carefully prepared. I have the notes of it before me, all in his own handwriting. He bent his energies to the case and prayed in aid the practice of the Ecclesiastical Courts. He took a careful note of Starkie's answer to him, the lawyer whose book on *Libel and Slander* in its sixth edition is still on our shelves, and made a forcible reply. One ingenious argument may be referred to, which is given in his notes, as "suppose them written in French or in Latin" and expanded in the report :

"If the letters had been written to him in a foreign language, with an apparent view to correspondence, by a person who knew him, would no inference arise as to his knowledge of the language? The present evidence is precisely the same in character though perhaps not calculated to produce so strong an effect."

But these efforts did not avail. The six judges were equally divided and the judgment below for the heir-at-law stood.

That, however, was not the end of the litigation. The case was brought before the House of Lords by writ of error, and once more argued by Sir Frederick Pollock, who had with him the brilliant Sir William Follett and Mr. Martin. Martin in the same year as the case was argued—1838—married Sir Frederick's eldest daughter, and their only

child was later on the wife of Lord Macnaghten. On the other side, as before, were Cresswell and Starkie.

The case was argued with great fulness. One curious hypothetical case was used as an illustration to support the argument.

“Suppose a clergyman was to disappear from his residence, and forty years afterwards a body was found with the pockets appearing to have remained untouched for many years, and in those pockets were found letters addressed to a person as a clergyman, and bearing the marks of having been opened and read, would not those letters be evidence in any proceeding respecting the identity of the clergyman, to show that the person in whose pockets they had been found was the clergyman who had disappeared about the date of the letters? They would be evidence of that fact, and as such evidence ought to be left to the jury.”

The hearing before the House of Lords was on the 12th and 13th February, 1838, and the Lord Chancellor, who was Lord Cottenham, at the close of the argument said he would require time to consider how to frame the questions to be put to the judges. The question put to them was, *simpliciter*: “Whether the three letters herein before set out were admissible in evidence on behalf of Wright.” On the 22nd May the judges delivered their answers. The names of those who thus were called upon to advise the House of Lords occasions some surprise. They were twelve in number, and among them are Mr. Justice Park, who had tried the issue at the Assizes at York in 1830; Baron Gurney, who had

tried the case twice at the Lancashire Assizes in 1833 and 1834; Mr. Justice Coleridge, who had tried the case for the third time at the Summer Assizes for Lancashire in 1836; and Williams and Patteson JJ., who had been relieved from the responsibility of the judgment of the *Court in Banc.* on the 1st February, 1837, because of their previous connection with the case.

In addition, Tindal C.J., Bosanquet J, and Baron Vaughan had heard the case in the Exchequer Chamber in 1834, and Littledale, who had shared in the decision to order a new trial in 1836, and Baron Parke, Tindal C.J., Park and Bosanquet JJ., and Baron Gurney had given the decision from which the appeal was in hearing before the House of Lords.

However, the House of Lords found the case so difficult that it required the assistance of the judges, steeped as the majority of those who answered the question put to them were, in the previous decisions upon the same point. The judges ranged themselves in their answers as follows :

Coleridge, Williams, Alderson, Bosanquet JJ., and Baron Parke pronounced against the admissibility of the three letters; Tindal C.J., Patteson, Vaughan, Littledale, Park JJ., with Barons Gurney and Bolland, were in favour of admitting them. Thus none of those who had delivered judgment in the Exchequer Chamber altered their opinions. In number the majority were in favour of the contentions of the appellant. Listening to these opinions thus delivered was Lord Brougham, who had held himself disqualified from giving a personal judg-

ment on appeal from Sir John Leach 'some seven years before, but who now oracularly said that he agreed with those who—

“ Think that we are now called on to decide a question of very considerable importance, both with reference to the individual interests concerned, and still more with reference to the principle involved in the decision, applicable as it is to that great branch of the law of this country, the admissibility of evidence.”

He did not, however, move any judgment that day, but contented himself with general observations. On the 7th June he moved that the judgment of the Exchequer Chamber should be affirmed in a short judgment which occupies barely a couple of pages. To that motion Lord Lyndhurst gave his assent. He declined to deliver an opinion on the arguments urged at the Bar, which he had not heard, but as he had read the opinions of the judges, he allowed Lord Brougham to announce his acquiescence with the motion made.

Lord Denman then made his speech :

“ I have not the advantage of having heard the arguments in this case at your Lordships' Bar, nor the opinions delivered to your Lordships by the learned judges. But I heard the question of the admissibility of these letters argued in the Court of King's Bench two years ago.”

And he then gave his opinion based upon consideration of the judgments given in the Exchequer Chamber from which the appeal lay, adhering to

the judgment given by the Court of which he was a member.

At that time any peer could sit and hear cases. There were no law lords, and the business of the House, legal as well as general, was open to all peers. Lord Denman's attitude to the case which he had not reheard, but as to which he had had previous experience, marks a great divergence from what would now be the practice of the highest tribunal. Lord Abinger declined to take any part in the case as he had been counsel for Admiral Tatham from 1830-1835.

Finally the Lord Chancellor, Lord Cottenham, delivered his opinion against the admissibility of the letters, and the appeal was dismissed.

The case had ranged over eight years. It had come before almost every judge in one capacity or another. In the House of Lords, Lord Cottenham was the only fresh mind available. But the difficulty of the House of Lords in providing a fresh tribunal affords an illustration of the necessity of having it equipped for judicial work with a number of peers qualified to sit upon appeals. The case was argued at a time when it was difficult to provide a legal tribunal adequate to the great duties imposed upon the highest tribunal.

There seems room, for a wider application to this prolonged case, of an entry in my grandfather's notes at the very end of them.

"Assuming capacity all is clear and plain. Assuming incapacity the matter is inexplicable—unintelligible—not according to the experience of mankind."

It would be wrong to reflect on the capacity of the bearers of the great names who took part in the case, but that capacity needed to be of a high order indeed to make all clear and plain.

Thus ended this long and tantalising litigation! Before Park J. upon the issue, the jury held that the will was good, and when the letters were admitted upon the second trial before Gurney B. the same result was reached. But when the letters were excluded at the first trial before Baron Gurney, and at that before Coleridge J., the heir-at-law succeeded, and in the final result he held his victory.

A few words may be added as to the division of opinion when the case was last argued in the Exchequer Chamber.

Coltman, Bosanquet JJ., and Parke B., were against the admission of the letters; while Gurney B., Park J., and Tindal C.J. were in favour of their admission. The judgments of Tindal C.J. and Parke B. reached a very high level, though their views are divergent. I confess that my own view would be against their admission, though the letter from Ellenshaw might have been used to confront him in cross-examination on his evidence as to Marsden playing a childish game when his compeers were more worthily engaged.

Letter writing in those days was not so common as it is now. Perhaps the view taken ninety years ago was that none would have expended powder and shot upon an imbecile, or gone to the expense of writing a letter to one who was incompetent to appreciate its contents. But in the present days, when correspondence has ceased to be a trickle and

become a torrent, it would seem difficult to derive any sure or certain inference from the possession of the letters, with their seals broken indeed, but without the production of any answers to them written by their recipient.

CHAPTER IX

THE JUDGE

WHEN my grandfather took his seat on the Bench in the Court of Exchequer, the system of the Common Law that he had to administer was far different from that which prevails at the present day. The old method of strict pleading, which allowed practically of no amendment, held the field, with its artificial rules, which are to be found in *Stephen on Pleading*. It is commonly supposed that it led to much injustice. Although injustice may not thereby be excluded, it is probably more accurate to say that it led to much delay, and involved a heavy burden of costs upon suitors, who would find that their evidence was unable to sustain their declaration, and were compelled to submit to a nonsuit and bring a fresh action. But the system, as Lord Bowen said of it, connoted accuracy of thought, and the pleaders were compelled to think whether the facts available would justify a claim for a legal remedy before starting an action, with the result, no doubt, that many tentative claims had to be abandoned.

In the present day it is possible for a claim to be heard and to succeed before a jury and the whole proceedings to be set aside at a later stage by the Court of Appeal or the House of Lords.

Under the old system such a flaw in the claim

would have been discovered and determined upon a demurrer, before the expense of a trial with its costs for witnesses and the like had been incurred. I am not making these observations in a spirit of regret, as a *laudator temporis acti*, but to point out that, under the bygone system, precision was required, and that is a merit which must not be overlooked. It is still requisite. A system in itself is not necessarily the cause of the failure of justice, but the manner in which it is applied. Probably any system can be worked well or ill according to how it is administered, and under the old practice many able lawyers flourished who have bequeathed to their successors the embodiments of sound legal principles in terse and incisive judgments which will always be recalled as milestones on the road of jurisprudence.

It was not until 1851 that the parties to a suit could be called as witnesses. It was supposed that they were so deeply interested in the result that their evidence could not be trusted. Indeed, objection could be taken to any witness on the ground of "interest"; and a common weapon in the attorneys' equipment for the hearing of a trial was a number of "releases"—wherewith in Court, if so challenged, the witness' "interest" in relation to the party on whose behalf he might be called, was discharged.

By 14 and 15 Vict., Cap. 99, the parties were allowed to give evidence, a change which gave rise to misgivings in those accustomed to the previous lack of direct evidence. Thus Baron Parke writes to my grandfather :

ACMPTHILL.

21st September, 1851.

MY DEAR CHIEF BARON,

There will certainly be many questions arising on the New Acts: and it will be well for us to talk over some of them amongst ourselves, so as to be prepared when they occur, but I think it is open to objection to come to a binding resolution in such matters without having heard a regular argument upon them. I have looked at the Act for admitting plaintiffs and Defendants to be witnesses, but not considered it as attentively as I mean to do before we meet. I saw Brougham, not quite a month ago, at Brougham, and we talked over the Act and the effect of the amendments made at the last moment by the Chancellor. We both strongly inclined to think that the Act as amended does not make husband and wife witnesses for or against each other *in any case*, which is a very lucky circumstance for the public good, though it is contrary to what was intended. I do not think we should vary our course in the least as to the Sittings. Whoever is according to our present arrangement to take *nisi prius* is, I am sure, fully competent to deal with any questions that may arise, and probably they will be reserved for the full Court, whoever tries a case in which they occur.*

There followed in the next year the Common Law Procedure Act of 1852, and, later, its amend-

* The view presented by Parke that the husband or wife of a party was not admissible was sustained by a majority of the Court in the case of *Stapleton v. Crofts*, 18 Q.B., 367 (Lord Campbell C.J., Wightman and Crompton JJ.; dissentiente, Erle J.). But in 1853 this disability was removed, and the husbands and wives of the parties were made competent witnesses by the Statute 16 and 17 Vict., Cap. 83, Sect. 2.

ing Act in 1854. Those Acts conferred powers of amendment and greater flexibility upon the Courts, and established a system which many lawyers have regretted was not left standing, for it worked well without some of the alterations made by the Judicature Act of 1873 and its many subsequent amending Acts. This is, however, a digression.

The point is that during my grandfather's occupancy of the Bench he was acting under an older system—very different from the practice of the present day; but he faithfully accepted and carried into effect the changes made by the Statutes that I have referred to.

In the Criminal Law, those were the days of long sentences. No First Offenders Act had afforded a second chance to the prisoner; and some Statutes prescribed long terms of punishment which could not be varied by a judge, while in others, custom and precedents were so clear as to demand compliance with them. The reflex result of this severity was that technicalities were allowed to prevail in criminal trials, and to procure verdicts of not guilty which were in truth an abuse, and discreditable to a Court of Justice. An illustration of this is afforded by the trial in 1841, at the Bar of the House of Lords, of Lord Cardigan for having killed Captain Tuckett, his opponent in a duel. Lord Cardigan was acquitted because the witnesses failed to prove that his antagonist was known by each of the names Harvey, Gurnett, Phipps, Tuckett, by which he was described in the indictment,* although there was no real doubt as to his identity. In that case

* *Life of Campbell*, vol. ii., p. 139.

and in those days there was a desire to find an escape for the prisoner charged with duelling; but such a device would at the present time be impossible. It would be censured by public opinion, whereas ninety years ago such a result based upon a technicality was not unfamiliar.

Lord Campbell's Act,* which opens with the preamble :

“Whereas offenders frequently escape conviction on their trials by reason of the technical strictness of criminal proceedings in matters not material to the merits of the case,”

was not passed till 1851. It permitted the Court to amend certain variances not material to the merits of the case, and by which the defendant could not be prejudiced in his defence, and inaugurated much-needed reform, which has been since increasingly continued.

The Chief Baron had to take his turn with the other judges in going on circuit, or sitting in London, whether at Westminster or at the Old Bailey, or at Guildhall, where commercial causes were tried. When these latter sittings were abolished under the Judicature Acts, the loss of what had been a convenient tribunal for business men in the City was so much felt that the present Commercial Court was devised, largely at the instance of Mr. Justice Mathew.† His experience as a junior in heavy shipping cases led him to appreciate the need for a Court in which cases could be tried under a

* 14 & 15 Vict., Cap. 100.

† Afterwards Lord Justice Mathew.

simplified procedure, where the parties knew the crucial point between them, and were anxious to get it decided without the full procedure open to antagonistic suitors.

I have made no attempt to record the events of the Chief Baron's judicial career in annual sequence, and I pass over a number of years. I pause, however, to introduce a letter to his son on the sudden death of Mr. Justice Talfourd, who died of apoplexy while charging the grand jury at Stafford on the 13th March, 1854.

NORFOLK CIRCUIT,
NORWICH.

23rd March, 1854.

The event of this Circuit has been the death of Talfourd, which I own so far from appearing to me as very shocking, has an air even of grandeur about it; and were the end of life come, it is, I think, just as one would wish to conclude it. As I remarked to Forster, who wrote to me on the subject, it was in reality what Copley* fabled the death of Chatham to have been. Chatham was not in robes and he lived for a month or two after. Talfourd died on the spot—in the full robes of his order, in the discharge of one of the most important duties of his Office—charging the Grand Jury. Charging the Grand Jury is as good as charging the enemy. Scarlett died on the Circuit just about ten years ago, and of apoplexy, but his seizure was during a dinner to the Magistrates.

During my grandfather's long tenure of office many changes occurred among his colleagues in the Court of Exchequer. It is unnecessary to tabu-

* In the well-known picture in the National Gallery.

late them, but reference must be made to one of the newcomers to the Court, for he was a close friend and ally to the Chief Baron.

In 1856 Baron Parke resigned and was made Lord Wensleydale, and Mr. George William Wilshere Bramwell, Q.C., later so well known as Lord Bramwell, was made a judge in his place. Bramwell had been a member of the Common Law Commission in 1850, and he had been made a Queen's Counsel in 1851, and by his learning and position at the Bar was clearly designated for the Bench. My grandfather wrote to him :

HATTON,
HOUNSLOW, W.
3rd January, 1856.

MY DEAR BRAMWELL,

Last night I received The Chancellor's letter announcing that he meant to offer the vacant Judgeship to *you*. I presume you will accept it, or rather *have already done so*. I beg to express the great—*very great*—gratification it affords me to look forward to your being our colleague, and long may you continue to enjoy the dignity you so well deserve.

Yours most sincerely,
FRED POLLOCK.

Bramwell proved a powerful judge. Forcible and fearless, he enforced the law at all times with a deep knowledge of it, tempered by strong common sense. He sat in the Court of Exchequer for many years until he became a member of the Court of Appeal constituted under the Judicature Acts; and in 1882 was made a peer, and added his learning

and power of clear thought to the hearing of appeals to the House of Lords until he died in 1892.

One illustration of Bramwell's penetration through mysterious problems may be recalled. He used to put a question to a medical witness propounding the defence of insanity, who said that the prisoner could not help acting as he did: "Do you think he would have acted as he did if he had seen a policeman watching him and ready to take him into custody?"

In the later years of my grandfather's judicial career he gave his help, ungrudgingly, to the Chief Baron in the trial of cases with a special jury. It was the duty of the chief of each Court to deal with these. Attentive readers of the trial of "*Bardell v. Pickwick*" will remember that Dickens, with his usual accuracy in legal procedure, explains the presence on the Bench of Mr. Justice Stareleigh to try the case, by saying that he "sat in the absence of the Chief Justice occasioned by indisposition."*

In June, 1885, Lord Bramwell was kind enough, as a very old friend of my father's, to propose my call to the Bar at the Inner Temple, of which he was a Bencher. When I called upon him in order that he might satisfy himself personally that I was a "fit and proper person" to be called to the Bar, he recalled to me his friendship with his old chief, and particularly in the matter of trying special juries for him. There was a close affinity between the two men in their knowledge and respect for the Common Law and its administration in accordance with the dictates of common sense and mercy. They

* *Pickwick Papers*, chap. xxxiv.

wrote to each other constantly when separated on circuit, or during the vacations, and their correspondence was of a lively and entertaining character.

It is not possible within the limits of this memoir to give many letters, but I have selected a few as examples from this correspondence.

HOME CIRCUIT.

Saturday, 8th August, 1857.

5 o'clock a.m.

MY DEAR BRAMWELL,

In History, Time is of the essence of the Narrative, and it is *this* that makes *Chronology* a *Science*. I am therefore always particular and precise as to periods. I received your letter in Court yesterday as I was *compounding* a *summing up*.* I will some day give you the recipe, and apropos to this, it would be well if there were published a legal Cookery-book, or receipts for the making of speeches by counsel, Judgments and summings up by Judges, how to open a nonsuit (rarely done now, but formerly much in vogue and mightily *encouraged by the Bench*), also a receipt how *not to do it* would be of great use on many occasions, but *ad rem*. I am stimulated and moved to this early reply, as thus: Willes urges me to request you to come and dine here, to bring Miss Bramwell with you and The Baron Martin also. Also of my own *mere motion* (a royal expression to denote independence of thought and action—and which is always the more insisted upon, *in words*, the less it exists *in fact*) I am impelled to press our suit. We do not sit late; our hour of rising is 5. We would give you dinner at 6, or $\frac{1}{2}$ past; and your

* The dose was effectual.

visit would diffuse much pleasure and shed a lustre on The Croydon assizes for 1857—the *sub jove* would not do, for, now, it must be *sub jove frigido*. The thermometer outside my window is 55°—a few days ago it would have been 75°; “note the diversity,” as my Lord Coke sayeth, on divers occasions. I write to Gloucester and not to Palace Yard, as I collect that both you and Martin will be there on Monday. The *day* with the *Dons* at Oxford I have always found *dull*; there is not time to break the ice and fish in the waters below, but I prefer the dulness of learning to the dulness of ignorance. I would rather talk about Horace than about fattening cattle, and discuss Homer rather than the 4 course husbandry; but this is a mere matter of taste, on which I am not prepared to persecute anybody, or to burn (neuter not active) myself.

Yours sincerely,

FRED POLLOCK.

It would also be both tedious and outside the scope of these pages to give details, or even a summary of the many judgments given by the Lord Chief Baron, which are to be found recorded in full in the authorised reports of Meeson and Welsby, the Exchequer, Hurlston and Norman, and other well-known series. I have referred to four in the next chapter. His judgments were never long, but they were concentrated; and in his administration of the law there dominated a strong common-sense leaning to substantial justice rather than to technicalities. The writer in the *Dictionary of Nat. Biog.** sums up his value as follows: “Though place cannot be claimed for him among the most

* Egerton and Brownlow.

illustrious sages of the law, he yields to none in the second rank." The obituary notice in the *Annual Register*, 1870, says :

"As Chief Baron he showed himself an excellent judge—sound, safe, sensible, able, and indefatigable, ever ready at his post, and inflexible in the discharge of his judicial duties. His legal merits were enhanced by his personal worth, his scrupulously honourable character, and his uniform courtesy and kindness to all with whom he was brought into contact from the highest to the lowest."

Serjeant Ballantyne writes :

"It has been my lot to be engaged before him in many cases. He possessed firmness and decision, and though sometimes hasty, he was never harsh or discourteous. I do not think a young counsel ever had to complain of injustice being done to him and he thoroughly appreciated merit. Although solemn in manner, both upon the Bench and in society, I have heard him make the best after-dinner speech that I ever listened to except from the lips of Dickens."

It is more to my purpose to endeavour to portray the character of the man in relation to his work. He wrote many letters to my mother and others from circuit, particularly in his latter years on the Bench, when the question was beginning to arise whether, in advancing years, he could still do his work and maintain his powers at the high level at which he had been accustomed to exercise them. I

* Ballantyne's *Reminiscences of a Barrister's Life*, vol. i., p. 232.

have chosen the letters which illustrate the diversity of his correspondents and the manifold nature of the subjects which he discussed with them.

HATTON,

HOUNSLOW, W.

Tuesday, 6th October, 1857.

25 after 3.

MY DEAR KATE,*

To you I dedicate the earliest labours of the day. I am up earlier than usual, one clock has just struck the half-hour after 3. I have had my first cup of tea (*Thé au lait*) and have raised my blind, so as to give me a view of the Garden—when there is any light. A few weeks ago there would have been a glimmering in the East; now I shall be two hours in the *darkness* of 3 candles. I am afraid you do not mean to return. It is selfish to wish you again here, because, if you are well, you must naturally desire to go to Moville, also it is *your duty*, which you never neglect. Mary very confidently expects you and considers it to be a case of *promise*, so I shall merely tell you that on Thursday I go to town to attend the Life-Office; the meeting is at $\frac{1}{4}$ past 4 and I can get away so as to attend you to Hatton by the 5.50. Think on these things. Perhaps I may call and see you in the morning, which (by some process) now means any time before dinner.

Did you take a Vol. of Wesley's sermons? You are quite welcome to take one to Ireland, not both—for I read them much. I like the general tone of good sense which I find there. I am charmed with the *spirit of toleration* or rather "*Charity*," and I love the spirit of kindness which everywhere breaks out. He seems to put an *ungracious expression* in a rich man, on the same level of morality as a dis-

* His niece, Miss Kate Alexander.

honest act in a poor man—and he is right in doing so—therefore he continually enforces the *controul* of *Temper*, the suppression of anger, or (if that may not be) of *angry words*, and recommends the “*soft answer*.” There is a great and very general mistake made—that *crimes* (offences which the Law punishes) are worse than mere SINS which the Law does not (and cannot) punish. In my opinion the husband who by unkindness breaks the heart of his wife, the father whose austerity drives his children from the domestic hearth, has more to answer for than a *casual murderer if there can be such a person*. Meet me at $\frac{1}{2}$ p. 5 on Thursday at the Station,

And always believe me,

Affectionately yours,

F. P.

HATTON,

HOUNSLOW, W.

Thursday, 8th October, 1857.

MY DEAR KATE,

. . . Good Heavens! that you should imagine, etc., etc. I meant to say you are welcome to the Vol., and if you wish for it and it will go by post I will send it to Ireland after you—seeing that the clouds of doubt have gradually left nothing but DESPAIR and we shall not see you—and so, GOOD BYE!

During such a storm of wind and rain as we had yesterday (and which continues this morning) it is to me indifferent where I am, and I hardly wish you to be here to be shut up in the house and hear the rain pattering on the glass or *gugling* down the water pipes. Summer is gone, and I must begin to content myself with the hopes of spring. Well now, is *Greek* to be the language? If so *done*, I will undertake to *write* in Greek. It would be a useless acquirement, but I will undertake to write *about* it

and tell you all the fine passages I know or may meet with.

But adieu,

Yours affectionately,
F. P.

NORTHERN CIRCUIT.
Saturday, 7th August, 1858.
4 o'clock a.m.

MY DEAR BRAMWELL,

Martin is at Appleby, I am here at Lowther Castle. At Appleby there is no prisoner and one cause—an undefended ejectment. We thought one Judge enough for such an affair. I have therefore remained here, in very comfortable quarters, and very splendid withal. Yesterday the Bar dined here, and certainly the reception is very magnificent. The profusion of gold plate, the abundance and excellence of the fare, the Park, the Castle, the whole place and scenery make this the most brilliant of all entertainments given by the Lord Lieutenants of the Crown to Her Majesty's Judges, and the enlightened, learned, and independent Bar that assists them in the administration of justice. That is worth twopence a line—no penny a liner. Scarcely our own correspondent could come up to that—and you have it gratis! . . .

Yours very sincerely,
F. P.

NORFOLK CIRCUIT.
Friday, 13th July, 1860.
5.20 a.m.

MY DEAR FANNY—DI,

The immediate cause of my writing to you is to enquire the WHEREABOUTS of Mary. I took her to you on Tuesday and left her in your keeping, but I am ignorant how long she was to stay with you,

tho' I believe she was to go to FANNY (Lady Martin) on quitting you. If she be *chez vous* give my love to her, and tell her to keep me informed of her movements and of all family matters that come to her knowledge. I look upon her as the' Chronicler of the family as Charles is The Master of the Rolls and Keeper of the Records. Last night was very fine, but savored of October. This morning we seem to have got into November, for there is an intense fog—I can scarcely see beyond our own small garden. I doubt if there be such a fog at Wimbledon, I feel confident there is not at HATTON, but *here* it is. "So much for Buckingham" shire—Shakespeare. Fire boils water here as elsewhere, and I have had a good cup of tea. Milk is as rich as near London. I am here on the *civil* side; Erle has the criminal business to do. I cannot learn what is my allotment.

I was yesterday guilty of a sort of rebellion. A Post office servant—whose duty it was to sort and deliver letters—was charged with stealing a money-letter. The practice is to take the money out and burn the letter, and the only mode of detection is by sending a letter of *decoy*—a *snare*, a *bait*, a *trap*. They used to call them trap-letters; they now call them *test-letters*, and since the abolition of the test and corporation acts there may be nothing wrong or indecent in so calling them. A letter was prepared by a superintendant in the presence of an Inspector, and two half sovereigns were put into it fastened by a bit of card and two slits in it. This was directed to Miss Huggitt, a young lady of 5 months old, and was put into the aperture to receive letters. The Inspector took out the letters, recognised the test-letter and put it before the Prisoner, who sorted it, and no doubt felt the money in it. Mr. Huggitt was in the secret and

watched the Postman go by his house without delivering any letter. He instantly informed the Officer and the Prisoner was met on his return from his walk to receive a fresh bundle. He was searched; no money was found on him (they have become knowing and watchful—money is often marked and they know it and so change the money directed) but, unluckily, he had put the bit of card in his pocket and it was found upon him. He was convicted. There is a sort of rule that this offence shall be punished with 4 years' penal servitude at least. I thought I would not pronounce such a sentence, but would leave it to the Recorder. On enquiry I found the Prisoner had been 18 years in the Service of the Post office, and having a wife and 6 children (seven powerful arguments with me) and being also in great distress with only a Pound a week for 8 people and 20 miles to walk every day, he had yielded to temptation. I took courage and passed the sentence of 18 months' imprisonment and hard labour—abating 2 years and $\frac{1}{2}$ of the usual sentence. Was I right? I think it positively wicked to send *money*, gold or silver, by the post, and so I told Binnoo a short time ago when she would persist in so sending money. About 40 or 50 poor miserable wretches are convicted every year—at the expense of £2,000 a year. If the Government would lower the charge of a Post Office Order and forbid the sending of money by the post they would do an unmixed good. But what a length of yarn I am spinning. I have not left space to say how much I enjoyed your dinner the other day. Kaye is almost *passé*—deaf and old and (as you or Geo told me) apoplectic besides. He does not make an interesting companion, but Murray* was lively and com-

* John Murray, the well-known publisher, of Albemarle Street.

municative as ever, and Brackenbury as bright, and all was pleasant and cheerful.

I am at present uncertain about getting back to Hatton on Sunday as I intended. To-day we entertain the Magistrates of the County. To-morrow—aye—there's the rub! Love to George,

Yours ever affectionately,

FRED POLLOCK.

The next letter to his daughter is interesting in its reference to his own true birthplace. His gratitude to the University, which gave him his real opportunity, was lasting. He used to say that he was about fifteen years old when he first began to take pains with himself and no doubt, at Trinity College, that effort was intensified.

NORFOLK CIRCUIT.

Friday, 20th July, 1860.

$\frac{1}{4}$ to 5.

MY DEAR ANNA,*

We go to-day to Cambridge. Of our 6 places of business 3 are over—*Quant a moi*. Erle is still kept here at Huntingdon to finish one case, but I go to-day to my birthplace—Cambridge—for *that* is a man's Birth-place where he became what he is, and I own I look back upon the toils of study (and mine were severe) with great pleasure. I had often no wine or brandy in my room, little money in my pocket, and nothing but hope to live upon. I was always hopeful, and still am. There is some proverb about hope that will not come into my recollection—that it may be a good supper but it is a bad breakfast—well! What do you think?

Julius has made his first fee—there! He pre-

* His daughter, afterwards Mrs. Cock.

scribed for Verle Chief Justice who has conceived a high opinion of his medical, physiological, anatomical, and curative power and insisted on giving him a fee.

So the Registrar of Physiology has begun to practise. Now this is really a piece of Intelligence. Send me back something like it. If you don't, I won't send you such another—*Il me semble que je me porte assez bien. Daigner*, etc.

Yours ever affectionately,

FRED POLLOCK.

HATTON,

HOUNSLOW, W.

Monday, 3rd September, 1860.

6 o'clock a.m.

THE REV. J. CROKER.

MY DEAR SIR,

You must forgive my intruding upon you for a moment to thank you for your kindness of yesterday, and again to say how much I was gratified by what I saw of your management of the Institution over which you preside.* I am afraid nothing will eradicate the class to which your present labours are devoted—any more than “*the poor*” (whom we have “*always*” with us). Poverty is not always the cause of crime, but I apprehend it is so—in 9 cases out of 10. Poverty did not make Fauntleroy a forger, or Sir Jno. Paul, Baronet, a fraudulent Banker, but a combination of *lax principles* and *luxurious habits*. Reformatories will contend with (and I believe successfully) more than half the moral evil of dishonesty by substituting industry for idleness, inculcating a reverence and at last a love for religion instead of indifference—in short, by creating good habits and so excluding bad ones;

* The Reformatory at Ashford, near to Hatton.

but the evil of *bad passions* is more difficult to deal with.

I hope you will soon come over to Hatton and see what I have to show you—if you are forming a garden—I can materially assist you—as I have almost a *nursery* of young trees of various sorts from which you may choose—and all at your service as is also,

Your obliged and faithful
FRED POLLOCK.

HATTON,
HOUNSLOW, W.

Thursday, 11th day of October, 1860.
4 $\frac{3}{4}$ ante meridianum.

MY DEAR FANNY—DI,

It was near eleven o'clock when I went to bed last night, but here I am—*ante lucem*—but scarcely *sponte mea* (you have a good Latin dictionary to refer to if you want one). I was aroused about 1 o'clock out of a most profound sleep by the cramp and again just after 4, and my getting up was scarcely matter of choice. Rhubarb, ether, sal volatile, brandy, procured at 1 a short truce with the Enemy, but he rallied at 4, and I took refuge in *Souchong*, where I am (as I expected to be) safe—as safe as England after the *volunteer movement*. The fact is we dined out yesterday *pour-la-premiere-fois chez* Sir Jno. Gibbons, who now inhabits the paternal mansion (where I have formerly dined with the late and the present Lord Denman, and very likely Mary—dear with me). Sir Jno. is there as *chef de famille*; his sister (smaller than himself) keeps house for him. We met General Wood, the head of Littleton, Sir William (and Lady) Yardley—lately returned from being Chief Justice of Bombay—the new Vicar of Stanwell (who owes his cure of souls to being cousin to Lady

Chelmsford); one or two others made up the party, and I am afraid I really *dined*, which in general I do not when I go out to dinner, and so The Cramp acquired a right to stretch me on its rack.

The great domestic news of Hatton you have heard (of course). Newton is gone and Binnoo is bustling all day long—from butter and milk in the morning to shutting up the Poultry at night. Certainly we seem to have escaped from bondage, but we have not got a *Gardener* yet. We however jog on. Seed is sown, vegetables grow, cows feed and give milk, hens lay, and Saturday night comes to close the week—AS USUAL.

I hope your bairns have improved as much as mine by the Sea-side air and the general change of which the youngest are sensible; but, above all, I hope you have the *best possible account* to give of *yourself*.

I have just lighted the hall fire with my pantomime-poker, which does its work remarkably well. I sometimes think of writing—a “treatise”—no—not so much as that—an “essay”—even *that is too much*—“a few lines” “to record my experience in lighting fires for the use of my family, but must not forget that you cannot make good Beer with bad malt.” Walter Scott said, and truly, that Mrs. Barbauld’s essay on the folly of indulging “inconsistent expectations” was one of the best in the English language—it is certainly one of the most useful and practical. So finishing with a crumb of literature,

I remain,

Very affectionately yours,
F. P.

The next letter is again to Baron Bramwell.

HATTON,

HOUNSLOW, W.

Saturday, 10th August, 1861.

 $\frac{1}{4}$ before 4 a.m.

MY DEAR BRAMWELL,

This is the period of the year when (it is supposed) the Earth with its atmosphere rolls thro' a space occupied by scattered fragments of matter which, when they get within our atmosphere, take (ignite) fire, and produce the Phenomenon of falling stars. Sometimes they produce "aerolites" or masses (large or smaller) of Iron and Nickel (for they have all a common mineral character), and the evidence collected about them seems to shew that the finding of an aerolite buried some feet in the ground, which was not there the evening before, is connected with the appearance of a meteor—traced almost to the spot where the aerolite has been found. I got up this morning partly to observe the phenomenon of falling stars, but the night is cloudy and quite unfit for astronomic or atmospheric observation. There is nothing to be seen but cloud—cloud—cloud—and the rising sun (he will be above the horizon in 20 min.) pours very little light thro' "the blanket of the dark."

Why should your being kept a few days more or less—or even a week at Chester—prevent your going to Norway?—if you have any wish to go there. It may furnish a sort of excuse for not going, if the desire has vanished and you wish to ascribe the change to anything but your own inconstancy; but if you wish to go to Norway, you have time in abundance. Mind! I have *no sympathy* with your *wish to go—non equidem invideo—miror magis*—all the rude, wild scenery of nature is pretty much alike—one mountain pass is very like another. I have seen my Brother's sketches (not done by him—

self, he had something else to attend to) of the mountains of Afghanistan from Khyber to Caboul; they are the grandest things of the kind I have any conception of—gigantic, “Titanic,” compared even with the wildest scenery of Switzerland, or Spain, or North America, or (what satisfies me) Wales, Westmorland, or North Devon. The Pass of Glencoe in Scotland is the finest thing *I ever saw*.

My kindest regards to Crompton,

F. P.

The next letter is interesting as showing his determination to claim the respect due to his colleagues. It also presents in strong contrast the unsatisfactory methods then adopted as compared with the admirable arrangements of to-day. Twice a year the Lord Mayor entertains H.M. Judges. They are invited to the banquet on the day on which he takes his oath of office at the Law Courts, 9th November, and again, in June, he gives them and other judges and legal officers, and their wives, a splendid banquet, invitations to which are much coveted. It is an evening that is invariably made pleasant by the warm courtesy of the Lord Mayor and Lady Mayoress and the perfection of the arrangements planned for their guests. Sir William Soulsby has brought the hospitality of the Mansion House to high renown.

Undated, probably 10th March, 1863.

MY DEAR LORD MAYOR,

Only yesterday was I released from a trial of an anxious nature, and I avail myself of the first opportunity of addressing you to state my reason for declining the honor tendered to me last Friday

at the Mansion House of proposing your health as Lord Mayor. It is due to myself as well as to you that I should do this, for I am sure no one entertains more esteem for you than I do or honors you more for the many virtues which have acquired for you the great popularity you justly enjoy.

I know not who had the arrangement of the guests at the table, but whoever it was, he ought to have known that when a dinner is given to anyone—Peer or commoner—his seat (however humble his personal rank may be) is *on the right hand of the chair*. When you lately gave a dinner to Lord Elgin he sat on your right hand tho' the Duke of Argyle was present. When you gave a dinner to Lord Derby he sat on your right hand tho' the Duke of Rutland was present.

Were you to give a dinner to any member of the House of Commons he would be placed at your right hand tho' the whole House of Lords might be present.

On Friday Chief Justice Erle, the highest in rank of the Judges present, was placed on your *left* hand—some 8 or 10 places away from you. I was, I believe, farther off on the right—both of us so distant that no exchange of courtesy or civility could take place, and we might as well have been anywhere else. Several Peers were present, all of whom were placed about the Lord Mayor—right and left—putting down the Judges from the post of honor which on such an occasion they have with one exception invariably occupied. This was the more marked because the exception occurred at a similar dinner given by Alderman Wire (when Lord Mayor); the same arrangement occurred and I publicly noticed it in terms that could not be mistaken, and afterwards, in answer to an invitation from the Sheriffs, wrote that unless the Judges were

to be received with the customary respect I must decline the invitation.

Some Judges *then* stated that they would never, as Judges, dine again at the Mansion House, and what occurred on Friday has, I believe, given general offence to the Judges as a body. I have no doubt this was not intended, but except on the occasion of Alderman Wire's dinner and your Lordship's last Friday, the Judges have always sat on the right hand and next to the Lord Mayor, *whoever* might be present. Now I beg to say had I known this was to occur, I should have declined the invitation altogether; had I known it before my carriage was dismissed I should not have taken my place, but I would have returned home. In the position in which the Judges were placed I thought it better to do nothing that would appear to recognise and sanction the disrespect (however unintended) shewn to them, and, accordingly, I declined to take any part in the proceedings and left the table as soon as I could, meaning personally to Your Lordship no disrespect, for it was most painful to me to refuse, but intending to claim for the Judges the respect and attention that up to that time no one had denied them but Alderman Wire, and which is always shewn to any person (commoner as well as Peer) who is invited to a dinner professedly given in his honor. Notwithstanding this untoward circumstance, which I feel sure was not intended, I remain most sincerely with undiminished respect and esteem for Your Lordship,

Your faithful Servant,

FRED POLLOCK.

NOTTINGHAM,
MIDLAND CIRCUIT.
Wednesday, 11th March, 1863.

MY DEAR FANNY—DI,

Yesterday was a holiday and we spent it in Processions, Luncheons, Illuminations, and fireworks. Our procession must have been three miles long—it took an hour to go by—and was some of it grand, some good, some funny and ludicrous. The military was grand and good, the Free Masons, the ancient Britons, the Druids, the Odd Fellows; the Saxons, the Celts, the Notts, with I know not how many lodges each. "*Bands as before*"; music enough to make a whole nation dance. But I have sent you a Nottingham paper with a full account.

Edward was at the luncheon. I wrote an apology, which was read *with great applause*, so they tell me; you will find it at length in the report of the Banquet.

I believe my work is over here, and I begin on Friday to try causes at Lincoln. Being decidedly—undoubtedly—better than when I left London, you may tell Mary I have no thought whatever of resigning this year, and I am sure none of the bar here expect anything of the sort; but then I *Lie in bed* and unless on the bench indulge in rather a lazy life. I have quite given up tea—I *don't touch it*. You will, I think, fancy me looking older, but I am in very fair condition—no cough, little cold (in the head), fair appetite, sound sleep, agreeable feeling, cheerful frame of mind. I have a little to do at Hatton when I return, but I will see you at Wimbledon. Eastbourne would be a long journey. I want to know what Mary thinks of my letter to the Mayor. Love to her and George and the bairns,

Yours very affectionately,

FRED POLLOCK.

MIDLAND CIRCUIT,
WARWICK.

23rd March, 1863.

MY DEAR FANNY—DI,

To-day we reached this our last and longest place, but I doubt not we shall finish so as to reach London by Saturday night and spend Sunday in town. I am (they say) to have 20 causes here. I am quite equal to it. I improve *de tems en tems*, and am told I am now better than I was when here in the summer.

I am sure I have done better than if I had resigned.

I calculate you will be in town early in the week and early will I find you out and see you, which I have not done a long while. Mary, of course, remains with you for some time; Binnoo talks of getting the ground floor of No. 78 and giving me a Bedroom on the ground floor—in which I am really not very anxious that she should succeed. I expect we shall both be invited soon to a reception at St. James's and I think she ought to go to the next Drawing Room. I calculate our stay in town at least 3 weeks longer. I presume the girls enjoy it very much. I never hear from them and have given up writing. Give my love to Mary and tell her I am really as well as a man who is to reach 80 this day 6 months can well be.

Yours ever very affectionately,

FRED POLLOCK.

The next letter to Bramwell is written just three weeks before he had completed his tale of eighty years, ~~and is a~~ useful commentary on the value of the Long Vacation, the necessity for which had been emphasised by Brougham in his great speech in 1828 already referred to. The "sittings after

term"—that is, the actual legal term of some three weeks—were needed to dispose of the business of the Courts, but were often prolonged so as to swallow up a portion of the vacation, as indeed may still occur at the Assizes.

HATTON,
HOUNSLOW, W.
31st August, 1863.

MY DEAR BRAMWELL,

The object of this epistle is to express a hope that you will come some *day* here—dine and sleep; make it *days* if it be convenient and agreeable. To me—to us—it cannot be inconvenient at any time—during the “balance” of the Vacation.

You are making a prodigious fuss about the abridgement of the long vacation—as if “Bramwell’s abridgement” was an extraordinary work.

I remember being engaged at Lancaster in a cause before Bailey in the month of September and my long vacation consisted of *one* day—which enabled me to travel to London and attend Lord Tenterden’s sittings (he was then only Sir Charles Abbott) the *following day*. This was before Scarlett’s Bill passed, which fixed the terms and secured us a long vacation of decent and reasonable length and gave us a short vacation, commonly called Scarlett’s holidays.

While the Chief Justice himself received much in fees for business done, his clerk (I believe) a great deal more, and his son (the associate) still more—he worked like a trooper—but when he (and the *οἱ ἄμφι*) were put on salaries he was quite contented with the “*inactivity*” to which the Statute condemned him by giving 24 days of sitting after each term and no more—unless by consent.

It is above 30 years since all this happened, and

you (young gentleman) know little about it, and as to your *stay* at Croydon, I was once three weeks at Guildford myself. The Malignant did indeed say that I dawdled to shirk the Old Bailey, but I sat every day as late as you do now; and you are right, it is as late as a Court ought to sit when it sits *de die, in diem*. I liked very much the remarks you made about the business and the doing of it. Come—come—you will get great renown for the monster Assize at Croydon.

Best remembrances to Channell,

Yours very sincerely,

FRED POLLOCK.

HATTON,

HOUNSLOW, W.

18th October, 1864.

MY DEAR FANNY—DI,

Yesterday I gave order to Garrard to put on the Pollock and Herbert Arms—crests and mottoes are out of the question; part of the bearings of Herbert of Muckcross would be held to be false blazon, a Lion *Argent* ought not to be langued and armed “*or.*”

* * * * *

Voilà tout.

You had better come over with George on Friday or Saturday next and dine and take away the *Things*.

I am not sorry at Geo's information about Müller's trial—*The Times* of to-day *confirms* it. It is *very likely* that some Evidence from America may be wanted.

Love, Love, Love, etc.—like a recurring decimal.

Yours ever affectionately,

F. P.

Early in 1865 his thoughts were again directed to Cambridge. His grandson, now the Rt. Honble. Sir Frederick Pollock, K.C., was then in residence as a scholar of Trinity College and was his correspondent. The Chief Baron began to enjoy the greatest pleasure that belongs to later years—the success of those who are to follow us; and he evinced a warm sympathy and delight in his grandson's attainments.*

75, EATON SQUARE.
23rd February, 1865.

MY DEAR FREDERICK,

I have heard about the Union and its architectural intendings, and *I wish to do whatever will be agreeable to you* in the matter. I was a member of the "Fusty" (from *fustis*, a club) and I left the University early in 1809, I believe long before the Union was "cemented or thought of." I have not the least claim to the honour of founding the Union; if it was formed in 1816 I had then ceased to be even a Fellow, for I married in 1813 and your father was born in 1815. When I left College the Fusty consisted of Lord Clive, President, his Brother, Robert Clive, Blomfield, afterwards Bishop of London, Lyall, afterwards Dean of Canterbury, and several others. When I joined it in 1804, Lord Palmerston was a Member, his Brother Temple a "diplomat," his brother-in-law, Sullivan; afterwards we had Canning, Lord Stratford, Lord Ellenborough, his brother-in-law, the recorder, and several others. Now if any of these subscribe as old members of another *Club ejusdem*

* In 1867 he was second in the Classical Tripos, and First Chancellor's Medallist, and sixth in the senior optimes in the Mathematical Tripos. And in 1868 was elected a Fellow of Trinity College.

generis, I shall be glad to do so, or as a member of the Senate wishing to advance the study and practice of public speaking, or if you have the least wish I should do so, tell me the current rate of subscribing. Has the Premier subscribed? I have no objection to my name being on the Building Committee if it will give you any pleasure.

Yours affectionately,
F. P.

ST. PETER'S COLLEGE,
CAMBRIDGE.

9th March, 1865.

MY LORD CHIEF BARON,

I use the privilege of my Office to write to offer you my sincere congratulations on the success of your grandson, Mr. Frederick Pollock of Trinity College, in obtaining the Pitt University Scholarship.

The Examiners unanimously awarded this honour to him as to the first of the competitors for the University Scholarships this year.

It will be gratifying to you to find a grandson thus treading in your steps.

I am,

Yours very faithfully,

H. W. COOKSON,
Vice-Chancellor.

HATTON,

HOUNSLOW, W.

11th March, 1865.

MY DEAR FREDERICK,

This morning I received a most welcome letter from the Vice-Chr. of Cambridge announcing your success, and another from your Father with the same news.

I shall write to both of them. In the meantime

I enclose to you the Vice-Chancellor's letter to me. You may like to keep it, which I should do myself, but it will be safer in your custody than mine.

The Rents of your Pitt Estate may not be immediately due, so I send you a check to enable you to wait till quarter-day. I believe I was the last Senior Wrangler (of any eminence) who knew absolutely nothing of the differential calculus, nor have I till now, tried to improve myself, but I am seriously reading Hall on the diff. calc.

I want somebody to tell me what to call things—what do you call dx ? the differential of x or what?

Yours very affectionately,

FRED POLLOCK.

HATTON,

HOUNSLOW, W.

Sunday, 13th August, 1865.

$\frac{1}{4}$ to 5.

MY DEAR FANNY,

Your young people by the Sea-side will want something to enable them to carry away some remembrance of Felixstow, or to give vivacity to the passing hour by some toy, *new* or *old*—a guinea a piece to the 3 eldest and $\frac{1}{2}$ a Guinea a piece to the four youngest is a very arbitrary mode of dividing 5 guineas among 7 children whose ages are in regular succession and perhaps not a very just one. No. 3 and No. 4 do not differ so much as to justify such a distribution.

It would not be a bad sum.

Given 5 guineas how to divide it with reasonable fairness—assuming that each should have a little more than the one below and a little less than the one above. It would be:

a to the youngest

$a + b$ to the next

$a + 2b$ to the 3rd, etc., etc.

$$7a + 21b = 5 \text{ guineas}$$

$$7a + 21b = 105s.$$

$$a + 3b = 15s.$$

$$\text{if } b = 1 \quad a = 12$$

$$\text{if } b = 2 \quad a = 9$$

$$\text{if } b = 3 \quad a = 6$$

6, 9, 12, 15, 18, 21, 24, the sum of these is exactly 5 guineas. And I think, subject to your correction, I have solved the problem. $b = 4$ would make " a " too little.

I wish I could have seen you at Felixstow, but you will be back to Wimbledon soon and I shall (as I generally do) look to the enjoyment to come and not lament what is gone by. Ipswich was my last place and I could not run any risque about sleeping at Felixstow with insufficient means of comfort; as it was I got thro' very well, and I believe gave general satisfaction. I sat in Court the last day 11 hours—from 9 a.m. to 8 p.m.—and without any fatigue that was painful or that I afterwards felt. This has given me great confidence in my powers of endurance, and enabled me to look forward to another year on the bench.

It seemed to be the general opinion that I had improved during the Circuit and looked better at the end of it than at the beginning. There is a terrible murder looming in the distance, which if not tried in September will come to me in October—*n'importe*.

And now I must conclude with all love and good wishes to you and yours.

Ever affectionately yours,
FRED POLLOCK.

HATTON,

HOUNSLOW, W.

Saturday, 16th September, 1865.

MY DEAR BRAMWELL,

Your scientific question requires 'an *immediate* answer as much as if you had asked where the *Fishmonger or Baker lived!* Let A be any No., square it, it will be A²; cube A², it will be A⁶; the square root of A⁶ is A³, which is A × A².

It may be put more generally: If a No. be squared, and the square be then cubed, the original number is raised to the 6th power, the square root of the 6th power is the cube, and the cube is the product of the No. into its square; it is therefore universally true, not only for the Nos. you put, viz., 10, 2, and 3, but for any number whatever, and it is the result of the definition of the terms used—from the meaning of square—cube, etc.

The square of any number × its root, must be the square root of the square cubed.

All this and *much more* I wd have explained to you, if you cd have come to see me but for 24 hours, and I am very sorry you cannot. I wanted to see Dowling very much—and *with you*. As to the Lord's Prayer: it resembles very much (as might be expected) a *formula in the Jewish Service*—then existing; the orthodox opinion is (I believe) that in asking for *daily bread* we ask for *everything*—everything necessary for our doing well. St. Matthew, 6 Ch., 9 verse, as "*thou shalt not commit adultery*" includes fornication and other similar vices, and "*thou shalt not kill*" includes anything that tends to kill. I consider the Lord's Prayer to be an example of the *manner*—"After *this manner pray ye*," not *long prayers* like the Hypocrites (nor sermons either, say I).

CHAPTER X

CASES

HALL *v.* WRIGHT
REG. *v.* MULLER

EGERTON *v.* BROWNLOW
REG. *v.* KOHL

WITHOUT attempting to give any summary of the important cases which came before him, I have selected two civil cases which illustrate the range of his knowledge and the factor of common sense in the Chief Baron's judgments, to which I have already referred, and two criminal cases which he tried when past the age of eighty-one and which illustrate his vigour and lucidity. The first is the case of "*Egerton v. Brownlow*,"* which was finally decided by the House of Lords.

The seventh Earl of Bridgwater by his will devised very large real estates to trustees to make a settlement according to the limitations mentioned in the will. One of those limitations was to Lord Alford and his heirs; but the Earl imposed a condition that if Lord Alford should die without having acquired the title of Duke, or Marquis of Bridgwater, that then the estates should not pass to Lord Alford's son, but should go over and be enjoyed according to other subsequent limitations declared and directed by the will. Lord Alford entered into possession of the estates, but died without having

* 4 H.L.C., 1.

secured the title of Duke or Marquis, and the question arose whether the limitations defeating the interests of his son were valid.

When the case reached the House of Lords, in June, 1853, the judges, to their great inconvenience, for several of them were busily engaged on circuit at the Assizes, were summoned to give their advice upon certain questions propounded to them and drawn up by the Lord Chancellor, Lord Cranworth. They were seven in number, and the first four of them were highly technical. They were answered seriatim by eleven judges. Their answers revealed considerable divergence of opinion. The Lord Chief Baron, who gave his opinion last, differed from all his colleagues except Baron Platt, and dealt with the questions in his own order, the sixth first, and then the fifth, holding that the answers to these questions provided the solution of the problem.

The sixth question was whether the limitations over after Lord Alford's death were what are called conditions precedent, and the fifth was whether these limitations or provisions were unlawful and void. In a carefully prepared opinion he answered the sixth question that the limitations were not conditions precedent, but what is known as "subsequent"; and on the fifth he held the limitations and provisions to be "repugnant to the State" or against the public good, and therefore void. He tests the questions from a review of constitutional questions arising in our history, as well as by legal principles and precedents, and his opinion is still interesting even if public policy is

no longer held to be a trustworthy ground for legal decisions.*

His view was adopted by a majority of the House of Lords. Lord Lyndhurst followed a course similar to that of the Lord Chief Baron and was in turn followed by Lords Brougham, Truro, and St. Leonards. Lord Cranworth adhered to the judgment that he had delivered previously, from which the appeal was taken.

The following commentary is not the less interesting though it was written more than twenty-six years later.

HATTON.

Wednesday, 17th March, 1869.

MY DEAR FRED,†

I will get from Bramwell the name of the case I allude to and send it you; it must be well worth studying, and so I think is the Bridgwater will case. I had the advantage of remembering the time when the will was *published* and, learning what was (then) supposed to be on good grounds Lord Eldon's opinion about it—viz., that the clause could not be supported, I took great pains about that case and I believe (from a note I received from him) Lord Westbury thought very highly of my Judgment—*opinion*. Lord Lyndhurst borrowed it to frame his Judgment, and it is a beautiful specimen of his clear and compendious mode of dealing with such matters—it is an abridgement of my opinion. There were four Lords to one. Lord Cranworth (a very honest and sensible man, but destitute of *vigour* and liable from weakness and ignorance, *not of law* but of the *affairs of life*, to

* See *Janson v. Driefontein Consolidated Mines, Ltd.*, (1902) A.C., 484.

† His grandson.

go wrong) stood alone and was opposed by 4 very remarkable men :

Lyndhurst,
Brougham,
(Wilde) Lord Truro,
and St. Leonards.

4 such men never met in the house, before or since, whose agreement on such a question gave it the highest possible authority. Copley brought a cultivated intellect of the highest order, not, deficient in Law, but more remarkable for profound sagacity—on all subjects. Brougham had a very good *Lawyer's* head (which Denman had *not*). Brougham's practical judgment on the *affairs of life* was, I think, almost *contemptible*; but a question of law is almost a question of pure science, and several of his Judgments are remarkably good, and probably he had more general knowledge than any of the 4.

Wilde was the greatest master of the *question* as a *social* one and was, besides, a very able lawyer—second only to *St. Leonards*, whose logic was most acute and who was equal to Eldon in Knowledge of law.

Pemberton (Lord Kingsdown), I have heard, sneered at the Judgment (he was then, I think, at the Bar), but I believe it is now accepted *generally* by the profession. The judges were very unequally divided. I think 11 sent in opinions, Platt and I one way, 9 the other way. I was then a Judge on the home circuit, and the only way I could get time to prepare my opinion was by getting up at $\frac{1}{2}$ past 2 and working for 3 or 4 hours—this was the origin of my early rising and I continued it for many years. There was one question, viz., whether the condition was *precedent* or *subsequent*, which I

thought so purely technical that I did not feel so confident as on the other, as to which it appeared to me quite plain that the descent of an Estate could not be made to depend on any public event in which The Interest of the nation was concerned.

I remember, when afterwards talking to Parke about it, he said the Judges had no right to *legislate* he admitted they once had, for the first limitation on perpetuities was not by *Act of Parliament*, but by a decision of the Court of Chancery on the ground of public policy. He maintained the Judges could not do that *now*. I maintained that whatever was against the public good or welfare could not be Law.

Yours affectionately,
FRED POLLOCK.

In the next case, of “Hall v. Wright,”* it is not unlikely that the Chief Baron’s judgment would appeal to most laymen, as well as to many lawyers, as based on good sense and also good law. An action for breach of promise of marriage was brought against a man who relied for his defence upon medical testimony that his physical condition was such that he was incapable of fulfilling his contract, without great danger to his life. This evidence was accepted by the verdict of the jury as true. The case was argued before two Courts, and there was considerable divergence of opinion. A majority of the judges in the first Court to which it was taken on appeal were divided in their opinion, two against two. When it came before the Exchequer Chamber, the higher Court of Appeal, the majority held that the contract was good and

* 1 E.B.E., 765.

valid, and ought to be carried out, for the lady might desire the association with her husband, even though his health was bad. The Chief Baron was in the minority, with Barons Bramwell and Watson, and held otherwise. In giving judgment, he said :

“ I shall proceed at once to the question, as to which a difference of opinion prevails among the members of this Court and of the Court below, and that is : What is the real meaning of a contract to marry within a reasonable time? Some learned judges think it is of the same character as any other contract, and that no terms or conditions can be implied by the law, and that, if it be not performed in the terms expressed, the party failing to perform it must pay damages for the breach of it. Other learned judges think that there are implied conditions or expectations, and that the matter stated in the plea is one of them, and, therefore, that the defendant cannot be called upon to pay damages for the non-performance of the contract alleged in the declaration under the circumstances which appear on the whole record. Now, it must be conceded on all hands that there are contracts to which the law implies exceptions and conditions which are not expressed. All contracts for personal service which can be performed only during the lifetime of the party contracting are subject to the implied condition that he shall be alive to perform them; and should he die, his executor is not liable to an action for the breach of contract occasioned by the death. So a contract by an author to write a book within a reasonable time, or by a painter to paint a picture within a reasonable time, would in my judgment be deemed subject to the condition that, if the author became insane or the painter

paralytic, and so incapable of performing the contract by the act of God, he would not be liable personally in damages, any more than his executors would be if he had been prevented by death. . . . In the case of an ordinary contract to marry, such as it is presented to the Court by evidence in actions of this sort, I think no one can doubt that the continuance of life is an implied condition. The question then is : Is the continuance of health, of such a state of health as makes it not improper to marry, another condition? I am of opinion that it is. There are conditions to be implied on both sides in such an agreement. . . . To such a case the decisions about impossibility do not, I think, apply. By the act of God the contract has become void. The man may go through the ceremony of marriage; but he cannot marry; the ceremony would not be binding; it would operate nothing; and the contract to marry is broken by the calamity of his becoming impotent.

“It has been suggested that in such a case the woman may be contented with the society of the man and that the choice ought to rest with her and that if she be willing to marry he must marry or pay damages. I am of opinion that such is not the law. I think if the man can say with truth, ‘By the visitation of Providence I am not capable of marriage,’ he cannot be called upon to marry. And I think this is an implied condition in all agreements to marry. I think the view of the law which puts a contract to marry on the same footing as a bargain for a horse, or a bale of goods, is not in accordance with the general feelings of mankind and is supported by no authority.”

The first of the criminal cases is that of Franz Müller, a native of Saxe-Weimar, who murdered

Mr. Briggs in July, 1864.* The crime had arrested attention, and the proceedings in September, before the magistrate, who committed him for trial, had told the public the details of the case.

The trial took place, without any postponement, such as the letter of the 18th October indicates, had been foreshadowed by my father, on the 27th, 28th, and 29th October, 1864. Although the murder itself had no sensational or emotional details, the case had some adventitious features which made it remarkable. It was the first murder on an English railway, and the arrest in America was secured by the speedy action and enterprise of the police.

Mr. Briggs, chief clerk in the bank of Messrs. Robarts and Co., of Lombard Street, on the 9th July, 1864, was done to death by Müller, a tailor's assistant, who inflicted, in a compartment of a railway carriage travelling on the North London Railway, terrible wounds upon him with a pair of tailor's shears some thirteen or fourteen inches long which Müller carried. The possession of this uncomfortable pocket weapon was explained by a journeyman tailor saying that if one of his trade did not take away his shears every day from his workshop he would very soon lose them.

Müller left the country on the Friday after the murder, 15th July, by the sailing ship *Victoria*, bound from the London Docks for New York. The detectives who had collected the evidence which went far to establish that Müller was the culprit sailed with two of the witnesses and a warrant for

* A full account of the trial has been published in the series of *Notable Trials*, William Hodge and Co.

his arrest from Liverpool to New York on Tuesday, the 20th July, by the steamship *City of Manchester*. The steamer was due at New York long before the sailing vessel, and in fact arrived there on the 5th August, with the result that the officers had to wait twenty days before the s.v. *Victoria* came into port. Then extradition proceedings were taken, and it was the time when the war between North and South was at its height. Counsel for the defence in his speech included a denunciation of the conduct of the British in the matter of allowing the *Alabama* to leave these shores, and contended that Great Britain by its own misconduct had rendered any extradition treaty a dead letter. "They pursue the supposed murderer to our shores and cry—Treaty, treaty, treaty. They tore that treaty to pieces three years ago."

This argument, however, did not prevail, and Müller was brought back on s.s. *Etna*, which reached Liverpool on the 16th September.

These several features excited interest on both sides of the Atlantic in the trial which took place before the Chief Baron and Baron Martin at the Old Bailey. Sir Robert Collier, the Solicitor-General, led for the prosecution and had with him Serjeant Ballantine, Hannen, who was Treasury devil, and so by custom entitled to be retained in any case in which a Law Officer prosecutes at the Central Criminal Court, Mr. Hardinge Giffard, whom this generation knew better as the Earl of Halsbury, and Mr. Beasley, while Serjeant Parry led for the defence.

It is unnecessary to recall the evidence. It was

circumstantial, the merit of which is explained in the next case which I refer to. The summing up of the Lord Chief Baron was clear and cogent, though in time it occupied no more than an hour and a quarter. In the obituary notice of him six years after, *The Times* wrote of that summing up :

“His emphatic eloquence moved the deepest feelings of the audience, among whom every sound was hushed, and every nerve painfully strained, as the full force of some apparently trivial point of evidence was pointed out, and its bearing explained to the jury.”

The jury returned a verdict of guilty in a quarter of an hour, and Müller was sentenced to death by the junior judge, Baron Martin, and hanged. The Lord Chief Baron was held to have presided with a power and dignity which affirmed, if it did not add to, his reputation.

The case of Müller is worthy of mention from another point of view. His execution was the cause of a scene even more flagrant and discreditable than was customary at hangings in public. Throughout the night before it took place, a surging mob hustled and bonneted its selected victims. *The Times* account runs :

“Yesterday morning Müller was hanged in front of Newgate. He died before such a concourse as we hope may never be again assembled, either for the spectacle which they had in view, or for the gratification of such lawless ruffianism as yesterday found its scope around the gallows.”

Later on, the article adds one feature of decadence which sounds oddly at the present day.

“Many had jars of beer; *at least half were smoking!*”

It is undoubtedly true that this scene advanced the passing of the Act in 1868, by which executions are ordered to be carried out within, and not without, the gaols.

The other case is that of F. H. K. Kohl, who was tried in January, 1865, for the murder of a man whose body was found decapitated in the marshes beside the Thames in Essex.

Sir Edward Clarke has told me that, as a young man, he was present during the trial and heard the summing up, and that he retains a memory of its lucidity and power.

The evidence was entirely circumstantial, and it was on the direction to the jury given by the judge upon the value of circumstantial evidence that he was accorded a just mead of praise. His summing up was printed and afterwards circulated to those interested in such matter. It is too long to be reproduced, so I have made excerpts :

“Gentlemen, I have heard the late Lord Tenterden—than whom no more correct or upright judge ever sat upon the Bench of British justice—I have heard him, more than once, state his views upon this subject. It is said that there ought to be certainty. Gentlemen, there ought to be as much legal certainty as there can be in any human affairs; and the rule that Lord Tenterden laid down (and I pronounce it in his very words) was ‘that a jury should be persuaded of the guilt of the prisoner before they found him guilty, to the same extent, and they ought to have the same certainty, that they would require in the transaction of their own most

important concerns.' This is *my* comment, gentlemen: *They ought to have the highest degree of certainty which the 'practical business of life admits of. Demonstration is not required; absolute certainty is not required, for it is really unattainable in any case whatever.* . . . Circumstantial evidence—perhaps a better name for it would be 'inductive testimony'—from which you infer something beyond the matter that is actually proved, is in reality rather information that is given by what I should call 'the language of facts'—those intimations which facts give to us, which we are all in the habit of appreciating, which we all of us constantly act upon—so much so that no juryman, no person of intelligence, can possibly fail to a certain degree to understand the language of facts; and, if he is careful, he may, I think, generally draw a correct conclusion.

"Gentlemen, this language, as I have called it, 'the language of facts,' is really that in which God speaks to us in the works and in the operations of Nature; and by those facts we are told of His goodness, His wisdom, and His power. It is a language understood by infancy; for long before the infant at the breast has learnt to utter an articulate sound by the ordinary forms of speech, that infant at the breast has learnt the language of facts, and before it can speak it understands what is the result of one circumstance occurring and another following, and it knows that there is a connexion between the two circumstances. Indeed, gentlemen, it is the language of all intelligent nature—it is the language in which history teaches those who are willing to learn. In society, in the various transactions of human life in every direction, you act much more upon the facts that you see than upon the information that is given to you. . . . But then this sort of

evidence, whether you call it 'circumstantial evidence,' or 'inductive testimony,' or whatever name you give to it, has this merit—generally speaking, the facts are those which occur in the natural course of things, not created for the purpose. Of course, the moment there is any suspicion that that is so, there is an end of the confidence to be placed in the facts; but some small fact occurs leading to a conclusion, and then, from the multiplicity of facts, the same conclusion is by some spoken in a strong and clear voice; by others whispered; by some suggested, and all pointing to the same conclusion. You know perfectly well that the resulting conclusion, whatever it may be, can be more safely relied upon than the result of direct testimony, coming, as it frequently does, from witnesses of whose character, of whose integrity, of whose veracity you know nothing."

The prisoner was convicted and hanged.

He writes to his eldest son of these two trials :

HATTON.
16th January, 1865.
6 o'clock.

MY DEAR FREDERICK,

. . . Apart from the Atlantic journey and the German excitement, Kohl's was the more interesting case. Müller's case is told in a few words. A man was robbed and murdered—he that robbed him no doubt murdered him, and Müller was found almost immediately after the robbery in possession of all the property taken. *Voilà tout!* But Kohl's case really required an examination of three or four points at least and a combination more intricate than Müller's.

When I first got a real insight into the "lan-

guage of facts," for that is the more universal name for it, I was really much pleased.

And in another letter a few days later he adds :

“ ‘The notion of Inductive Evidence,’ or ‘the language of facts,’ being the language of all intelligent nature, only occurred to me on the morning of the second day of Kohl’s trial.”

On the 9th November, 1865, I was taken, as a small child of four years old, to the Court of Exchequer to see and hear the ceremony of swearing in the Lord Mayor upon his accession to office. In those days the oath was administered to him in that Court. Now, after the abolition of the separate Courts, he takes the oath before the Lord Chief Justice of England. I sat by the side of the Chief Baron and can recall the scene well, for a good—if childish—reason. The attendant sword-bearer, with his fur hat, riveted my attention and excited my fears. For many years afterwards at night-time, when under the influence of puerile alarms, that figure stood before me! Even now, when the Lord Mayor comes into the Court of Appeal to invite the members of it to the Banquet at the Guildhall, my eye naturally passes to the sword-bearer, and I recognise the embodiment of childish fancy! I can recall the Chief Baron’s voice, slow, dignified, and impressive; but, naturally, the terms of his address have no place in my memory.

In October, 1865, Lord Palmerston died, and Lord John Russell became Prime Minister. When the new Parliament was opened in February, 1866, Gladstone became leader of the House of Com-

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mons, and the new Reform Bill was introduced. The majority of the Government dwindled to five when the second reading of the Bill was carried. In June, 1866, upon an amendment to substitute rating for rental, the Ministry sustained a defeat and resigned.

Lord Derby thereupon became Prime Minister, and once more the Conservatives took office.

This afforded an opportunity to the Chief Baron to hand back his office to those from whom he received it, and he took advantage of the occasion to retire.

Thus in July, when he had completed more than twenty-two years of service on the Bench, he sent in his resignation to the Lord Chancellor; for although the appointment to the chief office of each Court lay with the Prime Minister, who still has the duty of appointing the Lord Chief Justice, the Master of the Rolls, and the Lord Justices in the Court of Appeal, a resignation of these posts is placed in the hands of the Lord Chancellor.

Lord Chelmsford accepted it in the following letter.

EATON SQUARE.

10th July, 1866.

MY DEAR CHIEF BARON,

It is impossible for me to receive your communication of the proposed termination of your Judicial life without experiencing mingled feelings of regret and of satisfaction. Of regret that your long and honourable and eminent career at the Bar and on the Bench should be drawing to its close, and satisfaction that you will have an opportunity of prolonging your valuable life if you will only consent "To husband out life's taper at the close

and keep the flame from wasting by repose." Not absolute repose, for that to such an active mind as yours would be torture, but a repose in which you can indulge your taste for these pursuits, which, though crabbed and repulsive to some, have been the playthings of your short leisure hours, and which you have almost stolen from the night to enjoy. And I trust that you will not refuse to give the public occasionally (at least) the benefit of your services where they may be eminently useful. I should rejoice to see you now and then on the Judicial Committee where the business is conducted in a quiet orderly way and where the cases are usually of interest and always of importance. I need not say what a valuable assistance you would render to the Board by attendance when it suited your convenience and pleasure.

The formal act of resignation must be made by a surrender into my hands. I have directed it to be prepared and will accept it whenever it may suit your convenience to attend me. I am sorry you should have this trouble.

Believe me,

My dear Chief Baron,

Ever yours most sincerely,

CHELMSFORD.

Once more his friend Baron Bramwell was in close touch with him, and to his kindly regret at losing his chief, my grandfather replied :

HATTON,

HOUNSLOW, W.

10th July, 1866.

8.30—*post just come in.*

MY DEAR BRAMWELL,

How eloquent is a simple and natural expression of any kind and good feeling! It is not

weakness, but the excess of sensibility (which has been my happiness thro' life) that, after reading your letter, I burst into tears.

I am grieved to leave a Court where I have enjoyed so much and where I have such attachments. I trust often to see you at the Chambers during your "*confinement with hard labour.*" I should recommend you (especially as the weather seems likely to be hot) to adopt my plan of getting thro' the business; it creates no expense, the Hall is a good waiting room, the dining-room admirable for hearing and deciding, and the Judges' retiring room an excellent place for the barristers.

With respect to myself I have no regrets, no misgivings, as to what I ought to have done. I was becoming "*used-up*" so far that I was rapidly getting unequal to a *full day's work*, but your letter is worth more than Queens and Ministers can bestow. God bless you.

Yours sincerely,
FRED POLLOCK.

On the 17th July Sir Fitzroy Kelly was appointed his successor, and proved to be the last of his line. He died in 1880; and Sir Alexander Cockburn, who had been Lord Chief Justice of England from 1859, died in the same year; whereupon, as the old three Courts of Queen's Bench, Common Pleas, and Exchequer had been merged by the Judicature Acts, the titular chiefships were no longer continued. Lord Coleridge, who had been made Chief Justice of the Common Pleas in 1873, was appointed to succeed Cockburn as Lord Chief Justice of England, and that title alone survived.

My grandfather was made a baronet on the 24th July, 1866, and was gratified by the special distinction being granted to him, by the Queen, of being allowed to have supporters to his arms.

CHAPTER XI

RETIREMENT

SIR FREDERICK carried into his retirement an intellect still alert and vigorous, even if his strength was scarcely equal to the daily journey to the Court of Exchequer and back again to Hatton. No doubt his habit of early rising caused a reaction in fatigue later in the day, and at times he succumbed in the afternoon to dozing. If, however, counsel transgressed any of the rules, he was surprised if he had presumed that the Chief Baron was not attentive! Lord Russell of Killowen told me that an interested and amusing observation was made by my grandfather in course of the argument in the case of *Attenborough v. Thompson*, 2 H. and N., 559. The question to be decided was whether the residence of an attesting witness to a bill of sale had been stated in an affidavit sufficiently to comply with the Bills of Sale Act, 1854. "What is your proposition?" asked the Chief Baron of Mr. Lush,* who was arguing for the appellant, and the reply given was, that where a man eats, drinks, and sleeps is his residence. The report omits the full retort which Lord Russell heard the Chief Baron make: "That cannot be, for if so my residence would be the Court of Exchequer!"

He writes to his neighbour Mr. Croker :

* Afterwards Lord Justice Lush.

HATTON,
HOUNSLOW, W.

Wednesday, 3rd October, 1866.

MY DEAR CROKER,

Your letter still lies among my unanswered correspondence. I have been waiting to hear of the fulfilment of the happy prospect you foreshadowed. My own hands have been well occupied in much important correspondence arising out of my change of circumstances. Since we met I have become "Nobody," for in this country *everybody* is *nobody* who has not something to do and, Othello's occupation gone (I being Othello aforesaid), I have dwindled into a retired Judge, and my income is less by £3,250 than it was. I have lost some personal strength by becoming old, but I retain my power of writing, and in the 84th year of my age have no complaint and much enjoyment. I may state, as perhaps you do not know, that when I left the bench I was *older in age* than any man who ever sat as Judge in Westminster Hall.

I am now,

Yours truly,

F. P. (NOBODY).

A man of middle height—not so tall as the sons of his first family were—his health, which throughout his manhood had been good, remained excellent for his last years, and his leisure was largely devoted to mathematical problems. Nor was this his only hobby. "I study medicine, but I practise law," was one of his sayings. It is indeed true that science in its many branches appealed to him, more indeed than the philosophy of law. Perhaps, too, it may be said that if he had not had such a wide range of interests he would have indeed been one of

the sages of the law. His quick apprehension led him away from this path, for he was able to sum up a case or to give his judgment with a facility which did not require industrious preparation.

As early as 1816 he had been elected a Fellow of the Royal Society. There was not then the stringent rule in existence which limits the number to be elected to a very small proportion of the candidates for the Fellowship. He was accepted as "a gentleman well versed in various branches of 'mathematics.'" He remained true to this description. Although prevented, no doubt from stress of work, from making contributions to the society during his more strenuous years, yet when his position was assured he again took up the serious study of mathematical problems and wrote papers upon them. Thus, in 1843, he read a paper on the "Properties of Ellipse, etc."; and when on the Bench he contributed ten more papers among them—in 1847 on "Prime Numbers," in 1860 on "Fermat's Theorems of Polygons," and in 1866 on "Fermat's Mysteries of Numbers." On this subject he made a second communication from his retirement in 1868. It appears that four of his papers were written when he was seventy-eight years of age and the last two when he had passed the milestone of eighty-three! He maintained his intellectual powers by constant attention to these subjects.

Photography was another science in which he took a deep interest in its earliest days. He was President of the Photographic Society when the Queen and Prince Albert visited one of the exhibitions of the Society in 1856. He attended its meet-

ings and lent his authority to it at a time when his encouragement was of value—the early days of wet plates and cumbrous cameras.

The following letters contain some biographical details, as well as reflections, which retain their interest.

HATTON,
HOUNSLOW, W.
25th September, 1867.

MY DEAR FREDK.,

We had a very pleasant dinner on Monday., George and Fanny* came as *neighbours* for the *first time*, Sir George was very well, looking admirably. John† was I think decidedly the oldest of the 3. I have now seen two birthdays since my retirement and can look round with leisure and calmness to see what I have done, and I am thoroughly contented and satisfied.

It was suggested that I should be made Speaker in 1841 when Peel came in with the Majority of 91, but the Duke of Wellington insisted on Shaw Lefevre (a neighbour and friend of his in Hampshire) being continued, in *spite* of his *Politics*; this was a very lucky escape for me. Peel in 1842 or 3 sent me a message by Bonham that if anything occurred to Lyndhurst I should be Chancellor—luckily, nothing did occur. I have had a very large family, and I own I had rather occupy my position as the *head* of *such* a family than have any title or wealth without them. It is a subject not worth discussing further, but from all that I have seen and experienced, there is nothing to envy in any Peer who had not the means of living among the

* My father and mother, who had come to reside at Hanworth.

† His brother, who came to dine on his birthday.



"THE EVENING OF LIFE"

From the portrait now in the possession of the Bishop of Norwich

THE "ARGUMENT FROM DESIGN" 195

Peers as one of them. I have no *arrière pensée* or misgiving on the matter, but am thoroughly contented with the result of my labours, and I hope I shall leave enough of Descendants *bearing my name* to justify me in hoping it will be long before—The two dogs quit the family kennel.*

Yours affectionately,
FRED POLLOCK.

HATTON,
HOUNSLOW, W.
10th January, 1868.

MY DEAR FRED,†

Many thanks for your letter. On reading the passage it does not recall the feelings with which I heard John Williams recite the passage I allude to; it has gradually escaped from my memory, and I know *now* no more of it than Nebuchadnezzar did of his dream.

I am not sure I quite understand what Spinoza is supposed to have meant. The most celebrated instance that I know of—of the *argument from design*—is Paley's case of the watch. I see no shift there to avoid a confession of ignorance. The case of *the Eye* is this—it sees, it *does nothing else*; one concludes it was *made to see*. I pretend to no knowledge and have no ignorance to conceal in the matter—where a thing answers many purposes it is not so clear it was meant to answer all—was the *nose* intended for *spectacles*? quære.

I am glad you are to be a member of Lincoln's Inn—my academic success was an accident during my first years. I was a non-reading man in the sense of that expression at Cambridge. Your

* He had chosen two "talbots sable" as supporters to his arms.

† Now the Rt. Honble. Sir F. Pollock, K.C.

powers were discovered long before you went there, mine were found out there, but neither you nor I are mere Scholars or mathematicians. As conspicuously in *you* as in myself, academic success has been the result of general *mental power*, and you can make yourself as good a Lawyer as Hardwicke was or Willes is. I cannot express to you the disgust I felt on leaving Cambridge and substituting Tidd for Newton and Coke for Sophocles, but I stubbornly faced the difficulty and mastered it, and I live to see you as my grandson. Make yourself a *good lawyer* and you are sure not to want practice (sanscrit as an amusement *now and then*).

Love to all,

Yours affectionately,
F. POLLOCK.

HATTON,
HOUNSLOW, W.
25th March, 1868.

MY DEAR BRAMWELL,

Parke was not a *great* man at all; he was a very considerable man—his intellectual powers were like the explosive compositions—called “*fulminating*”—*very powerful* within a *limited* space; he was a *very kind* but not a *generous* man; he gave his sympathy freely, not as the Bishop gives a blessing, *because it costs nothing*, but because he had really a *kind heart*; but he loved money rather too much and too much courted Lords and Nobles. Lord Lyndhurst more than once (after I became Chief of the Court) asked me *if I did not find his views extremely narrow*—(I did)—and the case of Ellen and Topp* (I think that is the name of the

* *Ellen v. Topp*, 6 Ex. 424 (1851), was an action on an indenture of apprenticeship by the master against the father

case) about an apprentice, is the best sample I know of Parke and Rolfe and the triumph of Law above common sense in small minds. It was argued before Rolfe, Platt, and myself, and we all agreed. But Parke, when he heard it, said we were wrong, and cited the case of a sale of a West India Estate with a few slaves wanting and introduced the doctrine of the objection not going to the *whole* consideration. Rolfe (*cujus in corpore pusillo mens est magis pusilla*) turned round and adopted Parke's views. In the meantime Wilde made Rolfe a Vice-Chancellor, and *Martin* with his sound Law, and I had almost said if possible *sounder sense*, came into the Court and attended a meeting at my house. The case was stated to him by Parke and was answered by a contemptuous "*pooh! nonsense,*" to Parke's great astonishment. . . .

Yours very sincerely,

FRED POLLOCK.

HATTON,

HOUNSLOW, W.

22nd October, 1868.

MY DEAR FRED (Trinity College Society),

In addition to Kent's Commentaries, I think (if you will come here for a day or so) we may find many books of the Law, or connected with it, in

of the apprentice for the desertion of the apprentice; the defence being that the master had gone out of his business in which he was to teach the apprentice. It was argued upon a demurrer before the Chief Baron, Parke, Rolfe, and Platt, RB.'s. The Court took time to consider their judgment. As a difference of opinion arose between the members of the Court, it was reargued before the Chief Baron, Parke, Alderson, and Platt—Alderson taking the place of Rolfe—and on this occasion an unanimous decision in favour of the father of the apprentice was delivered by the Chief Baron.

my, I was going to say *Library*, but I ought to say *heaps of books*, which you may as well take possession of. When I retired from Guilford St. I gave away nearly all my reports—common law to Charles, now Q.C., Equity between J. Chitty and McNaghten. I could not read *Lunel* as a *novel*, and I had not curiosity enough about Brougham's capacity to read it for any other purpose. I suppose the new Lord has sold the copies which old Brougham suppressed, and that is the reason they appear *now*. I have seen *several* in the catalogues lately.

The common law of England is really nothing more than "summa Ratio"—*the highest good sense*—even Parke, Lord Wensleydale (the greatest legal pedant that I believe ever existed), did not always follow even the House of Lords; he did not *over-rule*—(oh no! *μὴ γενόιτο*) but he did not *act upon* cases which were *nonsense* (as many are). Juries, having the power to *believe* or *disbelieve* the evidence, have really the decisions in their own hands, but the Court has the power to set aside the Verdict and grant a new trial, which they profess *not* to do where *substantial Justice* has been done.

The Courts of Equity profess to act upon certain principles and are chiefly useful where many persons are interested by getting all parties before them. As an Equity Lawyer you ought also to be a Master of Common Law. I myself had *no treatises*; I referred to them as collecting the authorities. I learned Law by *reading the reports* and *attending the Courts* and thinking and talking of what I read and heard.

Yours affectionately,

FRED POLLOCK.

He had still another duty to discharge which had remained unduly delayed.

In May, 1861, a movement had been started among members of Trinity College, Cambridge, to raise a fund by subscription for the purpose of presenting to the College a statue of Lord Macaulay as

“A mark of the admiration which the members of the College feel for the Memory of their illustrious fellow collegian, and in commemoration of the strong attachment which he himself felt for the College.”

Had he not in his essay on Bacon described it as :
“The noblest place of education in England”?

Meetings to that end were held at Lansdowne House, with the Prince Consort, then Chancellor of the University, in the chair. The Chief Baron undertook the duties of chairman of the committee.

The subscribers numbered over 200 and represented all shades of political opinion. Mr. Woolner was commissioned to execute the statue, which was duly completed; but at first it was placed in the arcade of the Horticultural Gardens, South Kensington. Some difficulty was raised by Whewell, who was then Master, about its being placed on the site for which, as my grandfather recalled, it had been intended, and where it was still desired to set it—namely, in the ante-chapel at Trinity. Ultimately, in May, 1868, after the death of Whewell in 1866, my grandfather took the matter up as chairman and wrote to the new Master, Dr. Thompson :

HATTON,
HOUNSLOW, W.
22nd May, 1868.

MY DEAR MASTER,

It is now my duty as the Chairman of the Committee of Subscribers (for a Statue of Lord Macaulay to be presented to Trinity College) to acquaint you that the Statue is finished and is ready to be delivered. The Subscribers will of course pay the expenses of delivery and putting up. Its weight (several tons) makes it desirable that it should go at once to the situation where it is to remain—any change of place would be accompanied with expense and risk of injury.

On the lamented death of Lord Macaulay, a meeting was called of the members of Trinity College to do honour to his memory by erecting a Statue, and as he was known to be ardently attached to the College and was undoubtedly one of its greatest ornaments and most distinguished members, it was proposed to offer it for the acceptance of The Master and Fellows in the confident expectation that it would be placed among the most honored of the former members. I had myself ascertained (when visiting Cambridge as Judge of assize) that there was abundance of room for it in the Ante-Chapel at the West-end. The list of subscribers included many distinguished conservatives—among others, the present members for the University. I believe no member of Trinity College, since the days of John Dryden, can be compared with Lord Macaulay in the powerful and varied use of the English Language—which, since it appeared in the translation of the Bible, and has been invigorated and enriched by the Genius of Shakespeare (his most splendid passages becoming almost household words) presents the most accurate and

effective instrument of thought and the most impressive and noble medium of expression of any language of any age or country, and of this Lord Macaulay acquired an unrivalled Mastery and command, whereby he has extended the reputation and encouraged the cultivation of our literature throughout the world, in a manner unprecedented in any former time; of this abundant proof is afforded by the extraordinary demand for his writings in every country where the English Language is spoken or studied. The last edition of the *Essays* (the people's edition) had up to June in last year been disposed of to the extent of nearly three millions of separate numbers, and scarcely a week passes in which applications are not made for permission to republish portions of his writings for educational purposes.

I most ardently hope that in answer to this communication I shall receive a direction to send the Statue to the Ante-Chapel of the College.

I remain, my dear Master,

Sincerely yours,

FRED POLLOCK.

The reply was in cordial terms :

Private.

TRINITY LODGE,
CAMBRIDGE.

26th May, 1866.

DEAR SIR FREDERICK,

I shall take an early opportunity of calling together the Seniors and reading to them your letter.

I had ceased to be a Senior long before the first offer of the statue of Lord Macaulay was made to the College. But I have from the first ardently desired to see it placed in the site to which your wishes also point.

I have little doubt that the matter will be arranged to your satisfaction and to that of the Subscribers, as I hope to be enabled to announce in the course of a very few days.

I am, with the highest respect,

Yours faithfully,

W. H. THOMPSON.

The senior fellows agreed to the course proposed and the statue was erected in the ante-chapel, where it rests among those of Bacon and Barrow and Whewell, sideways to the incomparable statue of Newton by Roubillac with its exquisite inscription, *Qui genus humanum ingenio superavit*. The inscription on the base of Macaulay's statue, which cannot compare in terseness, was written by Sir Richard Jebb. In recent years another statue has worthily found its place in the group—that of Alfred Tennyson.

In 1869 the *Lives of Lords Brougham and Lyndhurst*, written by Lord Campbell, was published. Lord Campbell had died in June, 1861, and this volume was published posthumously as an addition to his well-known *Lives of the Chancellors*. The book has received trenchant criticism from all sides. Sir Theodore Martin, in his *Life of Lord Lyndhurst*,* refutes the allegations made by Campbell, and Atlay in his "Life of Lord Campbell," published in his *Lives of the Victorian Chancellors*,† collects the voices of disapprobation which had swelled in chorus against the last *Lives* written by Campbell. The Chief Baron wrote to Lady Lyndhurst a letter and sent a memorandum from which

* Pp. 518 *et seq.*

Vol. ii., 18

extracts appear in the *Life of Lyndhurst*, and the following to his eldest son reaffirms his opinion :

HATTON.

28th January, 1869.

MY DEAR W. F.,

Well! The *Review* is out before the *book* and one may say as (I think) Cicero does, "*O felicem utrumque!*" they are worthy of each other—*happy pair!* The Biography collects almost every story that malice had invented or scandal propagated of both the victims, but especially of Lyndhurst. The notoriously avowedly false ones are sometimes (not always) coupled with a doubt, but whatever filth and dirt could be collected to throw on the memory of either, Copley or Brougham, Campbell has diligently got together and left behind him as a tribute to their memory.

The Review is very dull (I think)—the writer (I wish you could tell me who he is) has endeavoured to *spare Campbell* and to save Copley and Brougham. I think The Thing cannot be done; it is a case where you must speak out, and tell the truth, tho' I must own it is difficult to tell the *whole* truth in a Review of a work recently published—the author having died only 6 years ago. The Reviewer says *Campbell was an honorable man*, and in a few lines gives an example of trickiness in narrative which in a Biographer is absolutely *base and contemptible*. The truth is Campbell was neither *honorable* nor even *honest*. I forget the name of the Lady* who wrote a history of some Chancellor, I think Hardwicke, with great trouble and pains, and much research. When Campbell

* Miss Agnes Strickland. She wrote to *The Times* to complain of Campbell's plagiarism. (See *D. N. B.*, vol. lv., p. 50.)

came to that Chancellor he borrowed literally *wholesale* (without permission or acknowledgment) from the pages of the Lady—as if he had made himself the researches which were entirely hers. *This* was not *honest*, and when she wrote complaining of it strongly, but in terms such as a Lady might use, he answered by an invitation to dinner from *Lord Campbell* and *Lady Stratheden*, which I think was not *highminded* or *honorable*.

A similar thing happened to myself in 1836, at the time that Lord Holland's* influence with the Ministry was so strong and his opinion of Bickersteth's merit so high that he induced the Ministers to appoint (over Campbell's and Rolfe's heads) Bickersteth† Master of the Rolls and make him a Peer. Campbell tendered his resignation, and in the morning told me he was no longer Attorney-General. Later in the day he said he wished to have my opinion of what he had done, and he said they had offered him a peerage for his wife if he would withdraw his resignation, which he had agreed to do and the 2 peerages came out together. Holland's interference was the most strange and irregular that any meddler ever made; it was altogether without precedent and was contrary to all rule. Lord Langdale was an able man, but Lord Holland's notion of *him* was an absolute Infatuation. He was not connected in any way with the government, he was not a member of Parliament, indeed not fit to be one. The Solicitor-General

* Chancellor of the Duchy of Lancaster in Lord Melbourne's Ministry.

† He took the title of Lord Langdale, and proved on the Bench to be not only a learned and able lawyer, but also an admirable judge. As Master of the Rolls he is further entitled to great credit in shaping the Public Record Office, which was constituted under the Act of 1838.

was Rolfe, afterwards Chancellor and Lord Cranworth, who seems to have looked at the affair with the indifference of a very small man (which he was), but he was a Chancery man. Pepys had before, as Solicitor-General, been promoted over Campbell's head. I think if the A-G. and S-G., Campbell and Rolfe, had both resigned and stuck to it Holland would have been defeated. Scarlett was then Chief Baron, I was ex-Attorney-General and Campbell consulted me as next K.C. to himself. I now wonder I did not ask, What does the Solicitor-General do and why do you not act together? But the fact is, Rolfe was so inconsiderable a person that nobody thought of him. My answer was, The proposal to pass over the A-G. and S-G. and introduce another Lawyer as Master of the Rolls was an insult to the Law Officers and the whole Profession. What you have got is entirely personal to yourself and I cannot distinguish between what you have done and agreeing to accept for your wife a valuable diamond necklace. I was answered in the evening by an invitation to dinner—we were on visiting terms—but few and far between.

Love to Juliet.

Yours affectionately,
F. P.

His satisfaction in his large family was added to by the birth in India of another son to his own son, who was afterwards Sir Richard Pollock :

HATTON.
2nd February, 1869.

MY DEAR W. F.,

I write to send you a piece of Asiatic news just arrived. Trim's wife was safely delivered of a boy on 1st January," making my 81st descendant

alive, viz., 20 children, 54 grandchildren, and 7 great-grandchildren. I think it not improbable that I have more descendants than any *male* person in England. The number is not extraordinary for a woman,* but very unusual for a man.

I never saw a relation of my Mother's at all, and not many of my Father's, but David, George, and I seem to have made abundant provision to continue my Father's race and to provide relations. . . .

I give extracts from some letters during this year to illustrate the range of his interests and the versatility of his mind in the last year of his life.

HATTON,

HOUNSLOW, W.

12th January, 1869.

MY DEAR FRED,

Thanks for your hint. I sent immediately for the book and expect it will arrive to-day. I have long wished to see some such work; *as a fact* it seems undoubted that matter and motion have some connection not yet understood—it may be that it never will be understood—like some other subjects at the other end of the scale. What is *space* (infinite extension)? Does it exist (of necessity) or is it a “creation?” Can it be annihilated? I should like to ask Jno. Stuart Mill when he has leisure from dreaming of Women's Votes and freedom of Election. I wonder Locke's thoughts never wandered or glanced that way. I never could enter into Kant's views that space is a mere mode of existence, and that “*now*” and “*here*” is the whole

* See *The Days before Yesterday*, by Lord Frederic Hamilton. At p. 332 he records that his mother, the Dowager Duchess of Abercorn, at her death, aged 93, had one hundred and sixty-nine direct living descendants.

of *Time* and *Space*. We see the Planets Jupiter and Venus and can measure their distance. That distance exists when they have left the places they occupied, but it is not necessary to dignify the subject by a brace of Planets. Take a couple of marbles in your hand or in a ring prepared for a game at Knuckledown or take the ends of two fingers—but these speculations do not lead to wisdom. Macaulay in one place says that Bacon scoffed at Galileo's notion of the heavenly bodies. Can you tell me where this occurs in Bacon's works? Probably your friend the Editor could. I very much wish to know. You see I am in reasonable health.

Great love to Juliet,

Yours affectionately,
FRED POLLOCK.

HATTON,
HOUNSLOW, W.
5th March, 1869.

MY DEAR FRED,

What you have "also" been reading is of much more consequence than the *mysteries* of Numbers or indeed any mysteries *whatever*. In my opinion the best method of studying law, *for a man who is to practise it*, is to read cases, making notes at the end of the column, and, if a common Lawyer, *nisi prius* cases, especially reading all the cases cited and making himself master of the Point argued and determined. I never read any Law Book *through* except Blackstone and I read that before I went to The University. Treatises lead you to any part of a subject and to all the cases that belong to it, but my advice would be, *Read reports* and make *your own system*, and all this implies, I think, more to *Equity* than to Law, for Equity is nothing but *cases*—the original limita-

tion of the power of settling property in perpetuity arose in a case of Equity.

There is a case (I don't know the name of it) decided originally by the present Lord Chancellor (the V-Ch.) and Bramwell (one of the most acute men that ever lived), whom he called in to assist him. There was an appeal to the Chancellor (then Lord Chelmsford) who, single-handed, overruled them both, and then it came in Dom. Proc. before Chelmsford and that feeble creature Cranworth, who supported Chelmsford. It was about an estate settled on a marriage. Mr. W. will tell you where the case can be found. Tell me what you think of it; it must be a good case to study. You ought to have the paper I sent you (I do not say you ought to read it). It is the produce of my brain after I was 82 years of age and will be in the next volume of *Philosophical Transactions*.

My best love to your Mother,

Yours affectionately,
FRED POLLOCK.

HATTON,

HOUNSLOW, W.

28th June, 1869.

MY DEAR FREDERICK,

I want your assistance as a classical scholar—you are aware of the passage in Milton's *P.L.*:

Adam the goodliest man of men

Since born his sons—the fairest of her daughters *Eve*

and of the critical remarks upon its absurdity making Adam one of his sons, and Eve one of her daughters. It is, however, a *classical form of speech* and is not a *blunder*, but a piece of *pedantry*.

I remember when I could have quoted the passage in *Ovid*, *Virgil* or *Homer*, of which it is an

imitation or translation, but my memory fails me; there is a similar form of speech in *Tacitus*!

Solus omnium ante se
Principum in melius mutatus

Now I want you to tell me the passage. I expected to find it in *Ovid* about Deucalion and Pyrrha but I cannot; there is an analogous passage in some other place, "*God and His Son* except *created* thing, etc.," as if God and His Son were created things.

Please help me if you can,
Love to Juliet,

Yours affectionately,
F. P.

TEMPLE HATTON,
HOUNSLOW.

16th October, 1869.

MY DEAR FREDERICK,

Just lately I quietly read the play of *Hamlet* in the Shakespeare Edition of Cambridge.

I think I have seen many attempts to give a reasonable key to the plot. I doubt whether there be one. My notion of Milton's *Paradise Lost* (which Macaulay wd think a dreadful heresy) is that it is a *very bad poem* containing the best and most *beautiful poetry* to be found in *any language*. I have a similar opinion about *Hamlet*. As a *dramatic* piece the Plot is execrable, but it is full to overflowing with dramatic and poetic beauty of all kinds and seems to have contributed more than any other play to those household words with which Shakespeare has enriched the English language—and taught wisdom and melody together.

My best love to Juliet,

Yours affectionately,
FRED POLLOCK.

TEMPLE HATTON,
HOUNSLOW.

Wednesday, 27th October, 1869.

MY DEAR FRED,

The number of mistakes in delivery of letters has compelled me to choose a name for my residence, and I have fixed on "Temple Hatton" as not inappropriate.

Junius in one letter says "drawing lots for the places would be comparatively a better mode of distributing them," etc.; drawing lots would at least give a chance of a suitable appointment, but a strong minister should always set his face against anything like a *selection* of *colleagues*. Gladstone is no doubt a man of the most powerful brain that ever lived, so was *Brougham*, but his Judgment was not worth a farthing, *especially* on *political* matters. Napoleon 1st had a vigorous intellect, probably not inferior to any that ever lived, but, according to his own definition, he was a very bad general—in the field of battle he was excelled by none and in the arrangements of a *day or 2 before*, but in the *general conduct* of a campaign he was, I think, miserably deficient. I have read Sylvester's paper but I missed anything "very fine"; suggestions of 4 or 5 dimensions in space, and such *vagaries* I consider to be mere absurdities. The plan of all nature seems to me to be very simple, but I cannot go into that now.

Love to Juliet,

Yours affectionately,
FRED P.

In April, 1870, he had the distinction—if that be the right term—of being recalled to the public gaze, dressed in his robes once more, for *Vanity Fair* published a caricature of him, which is still to be

seen in many chambers in the Temple; and is included, fourth in number, in the series of judges which that paper maintained till recent years. It was published some three and a half years after his retirement from the Bench, and is entitled "A Souvenir," proving that his memory at Westminster had not passed away. He is represented with an inordinately long face and heavy fulness under the eyes, and holding up his gown to show his feet. This posture is explained by Serjeant Ballantine :*

"I am not quite sure that I must not attribute to him some small share of personal vanity, as he was accustomed to sit upon the Bench nursing a very handsome leg and foot, and looking at it with great complacency."

The letterpress tells that: "Though now relieved from active life, he is still an authority, as well as a souvenir, in Westminster Hall."

In the later half of that year his strength began to fail and old age crept on apace. He passed away peacefully on the 22nd August, within a month of the completion of eighty-seven years of age, in his little room, where he had risen and worked so early, and where the memory of his early years was maintained by the portrait of Sir Peter Laurie upon its wall.

I give an extract from the diary of his daughter-in-law :†

* *Experiences of a Barrister's Life*, vol. i., p. 231.

† Juliet, the wife of Sir W. F. Pollock, the second baronet.

“He died without pain; he was surrounded by loving hearts; he was devotedly and skilfully nursed by his wife. He leaves to us all a dear precious memory. He was a most loving Father and a delightful companion. I already miss the storehouse which I so often ransacked and which always yielded treasures.”

He was buried in the churchyard at Hanworth, which is bounded by the garden wall of the house where Admiral Seymour and his wife, Catherine Parr, took charge of the Princess Elizabeth, and the name of Queen Elizabeth's Walk between the old yew-trees is still a tradition. I was present at the funeral, conducted with the pomp that then belonged to such occasions, and I remember the long silk scarves worn round the mourners' tall hats, which impressed a boy of nine years. Sir Frederick's younger brothers, Sir George and John, were present.

Sir George had in May of that year been gazetted a Field Marshal, though his subsequent honours of being made Constable of the Tower and a Baronet did not follow till the last two years of his life.* As the veteran soldier took a last look into the vault, he turned to my father and said: “You know he was a great friend of mine!”

Another extract from the diary above-quoted may conclude the scene:

“At my dear Father-in-law's burial a touching incident took place. At the last moment, when the coffin was lowered into the vault, an old man in a black gown, with white hair, carrying an iron box,

* He died on 6th October, 1872.

suddenly appeared at the brink. He knelt down, opened the box, drew from it a number of choice flowers, and flung them down upon the coffin, rose, spread his arms out as if speaking a benediction, and disappeared as suddenly as he had appeared. Some of the family present recognised him as an old servant to whom twenty years ago Sir Frederick had given a place.”

So his life ended. The note of these last years of his life, not less than previously, was one of deep affection to his children and grandchildren, and of them towards him. “A man that hath friends must show himself friendly,” says the old proverb. He certainly gave affection to the wide circle of his family and friends, and reaped in return a corresponding measure of love and respect. His children regarded him with devotion, which has afforded an example and become crystallised into a tradition.

There is no better memorial to him. Pliny’s words remain true. *Impensa monumenti super-vacanea est. Memoria nostra superabit, si vitâ meruimus.**

“It may be said that his mother’s ambition and prayer for him was fulfilled and answered. His life had not been eventful, but had had its vicissitudes. He had known the trough as well as the crest of the wave; and the tribute may be paid to him that throughout he had fulfilled the family motto—

“AUDACTER ET STRENUE.”

* The indicative and not subjunctive is used. “The outlay on a monument is unnecessary. Our memory will survive, if *in fact* we have deserved it.”

APPENDIX I

GEORGE THE FOURTH BY THE GRACE OF GOD of the United Kingdom of Great Britain and Ireland King Defender of the Faith TO ALL TO WHOM these presents shall come. Greeting KNOW YE that we for several good causes and considerations and here unto especially moving of our especial grace certain knowledge and mere motion Have constituted ordained and appointed And by these presents Do constitute ordain and appoint our trusty and well-beloved Jonathan Frederick Pollock of the Inner Temple London Esquire one of our Council learned in the Law AND WE have also given and granted And by these presents do give and grant unto the said Jonathan Frederick Pollock the same place precedence and preaudience in our Courts or elsewhere and also all profits advantages rights and preheminences* whatsoever which to one of our Council learned in the Law do belong or appertain or have used or ought of right to belong or appertain. And We also will and grant to the said Jonathan Frederick Pollock full and sufficient power and authority to perform do and fulfil all and every the things which any other of our Council learned in the Law as one of our said Council may do and fulfil. To Have enjoy receive and exercise the power and authority profit and all and singular the matters and things before granted or before expressed to the said Jonathan Frederick Pollock dur-

* *Sic*: the mute aspirate is inserted between the two vowels, in accordance with long-standing Chancery tradition, in order to show that they should be sounded separately.

ing our Pleasure in as ample manner and form as any other of our Council learned in the Law have had hold or enjoy the same. We WILL that this our grant shall not lessen any office by us or by our ancestors heretofore given or granted AND FURTHER of our more especial grace we have given and granted and by these presents do give and grant unto the said Jonathan Frederick Pollock for the exercise of the office aforesaid the wages and fees of forty pounds of good and lawful money of Great Britain yearly to be paid to him the said Jonathan Frederick Pollock out of our treasure at the receipt of our Exchequer at Westminster by the hands of our Treasurer or Commissioners of our Treasury Under Treasurer and our Chamberlains there for the time being to have hold enjoy and receive the wages and fees aforesaid to the said Jonathan Frederick Pollock during our pleasure. WE WILL also and by these presents grant to the said Jonathan Frederick Pollock that he may and shall have these our Letters Patent duly made and sealed under our Great Seal of our United Kingdom of Great Britain and Ireland without fine or fee great or small to be for the same in any manner rendered done or paid to us in our hanaper or elsewhere to our use. Although express mention of the certainty of the promises in these presents is not made or any other thing cause or matter whatever in any wise notwithstanding. IN WITNESS whereof we have caused these our Letters to be made Patent. WITNESS ourself at Westminster the twelfth day of June in the eighth year of our reign.

By the KING Himself.

BATHURST.

APPENDIX II

SIR DAVID POLLOCK

THE following account of Sir David Pollock, who died at Bombay on the 23rd May, 1847, is taken from the *Gentleman's Magazine* for that year, page 432. He was Chief Justice of Bombay, and a Bencher of the Middle Temple, and had been at one time Recorder of Maidstone.

“Sir David Pollock was one of the talented family of Mr. Pollock, a saddler near the Mews at Charing Cross. His brothers are the present Lord Chief Baron, General Sir George Pollock, and Mr. J. H. Pollock. He was born in 1780, and educated at St. Paul's School, London, and afterwards at the College of Edinburgh. He was called to the bar at the Middle Temple, 28th January, 1803, and for many years went the Home Circuit, and practised in the Insolvent Debtors' Court.

“He, at one time, had an extensive practice also in Parliamentary business, and in 1813 he published *Tables, exhibiting the various particulars requisite to be attended to, in consequence of the Standing Orders of the two Houses of Parliament, in soliciting such Private Bills as usually commence in the House of Commons*, 4to. He was made a King's Counsel in Hilary vacation, 1833. He was appointed a Commissioner of Insolvents some three or four years ago, and was made Chief Justice of Bombay in 1846, when he went to India.

“Sir David Pollock's private character and worth cannot be too highly spoken of; he had qualities which rarely fail to insure to their possessor universal esteem and love, and his loss will be severely felt by all those who were his personal

friends, more especially by the children he leaves behind to mourn his departure. Prayers were offered up for his restoration to health by the natives of Bombay, amongst whom he was revered. He had been in the country only seven months, but in that short time was unusually successful in conciliating the good opinion of all who had the good fortune to come in contact with him. His illness, caused by an abscess of the liver, was not of long duration. Though severe at the outset, Sir David had so far rallied a day or two before his death as to warrant the hope of recovery, and a passage had been taken for him to the Cape in the *Childe Harold*, which was to have sailed a day or two later than that on which his decease took place. His remains were interred in the cathedral.”

APPENDIX III

FIELD-MARSHAL SIR GEORGE POLLOCK,
G.C.B., G.C.S.I.

THE Life of Sir George Pollock was told in *The Life and Correspondence of Field-Marshal Sir George Pollock, Bart., G.C.B., G.C.S.I.*, by Charles Rathbone Low (W. H. Allen and Co., 1873); and in the *Memoir to Illustrate the Origin and Foundation of the Pollock Medal at Woolwich*, by his friend, Field-Marshal Sir Lintorn Simmons. In these notes I do not attempt to supplement the above. Two small matters I may add. As the General who had conducted the campaign for the relief of Jellalabad and marched victoriously into Cabul in 1842, he was presented with the freedom of the City of London upon his return

from India, owing to illness, in 1846. The motion for this purpose was made on the 6th April by Sir Peter Laurie, who had passed the chair in 1832-33. It was a curious convergence once more of two widely different careers; when the foreman of the father's shop in Down Street reappeared as senior alderman to move that the freedom of the City should be presented to the General home from India as worthy of this great honour—the man whom he had known as his master's son, down to the time when he left for India as a mere lad of 17 in 1803!

The other matter refers to the inscription upon the Field-Marshal's tombstone in the nave of Westminster Abbey, where he lies near to Laurence and Nicholson. My father was his executor, and some difficulty arose as to the terms of it. This was, however, easily adjusted by the Dean, to whom, as supreme in the Abbey, such a matter had, of course, to be referred. Sir George throughout his long service of over forty years had never been wounded seriously. Dean Stanley, with characteristic insight and sympathy, aptly chose the words from Psalm cxl. v. 7: "O Lord God, thou strength of my health, thou hast covered my head in the day of battle."

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